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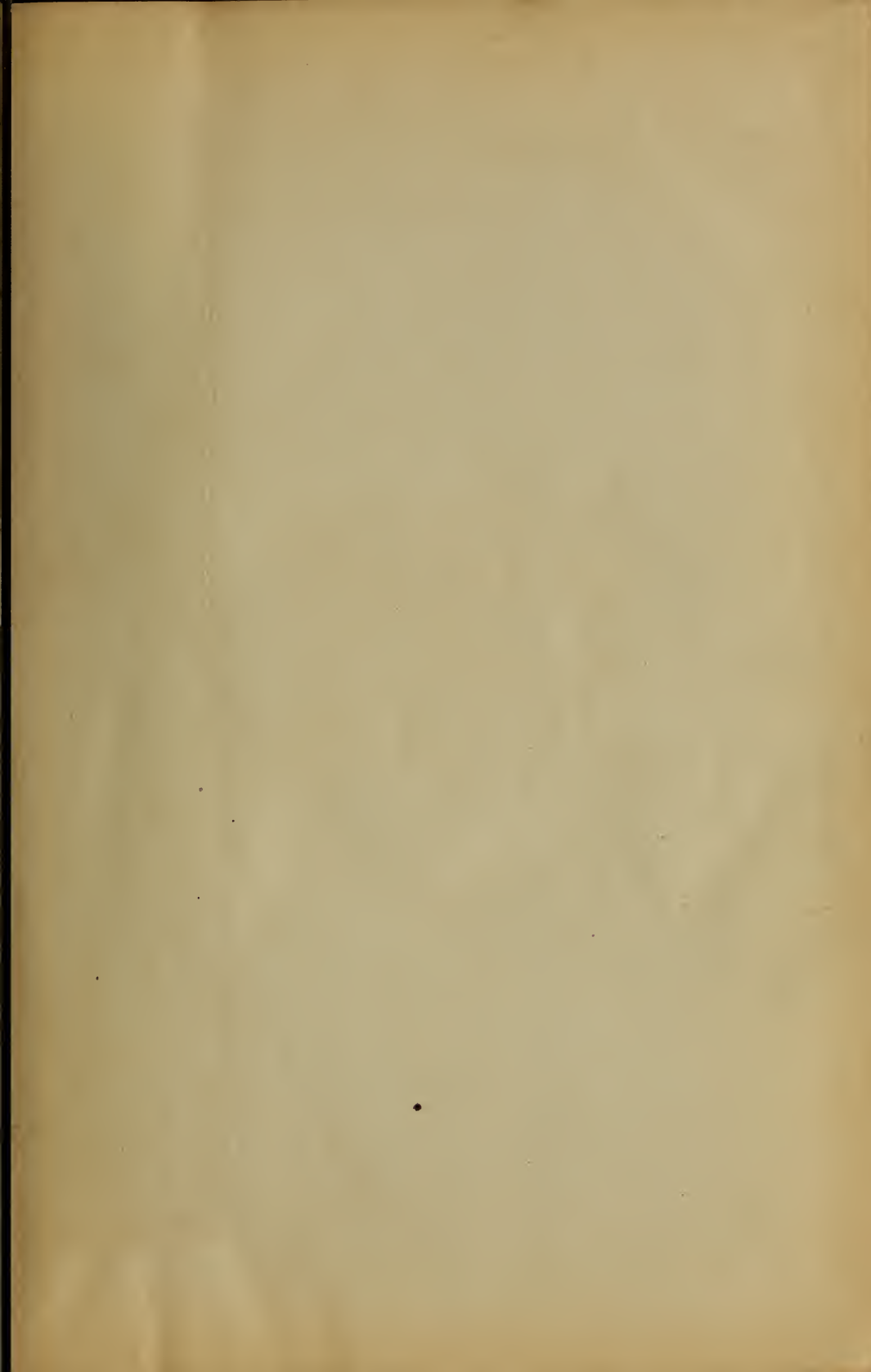


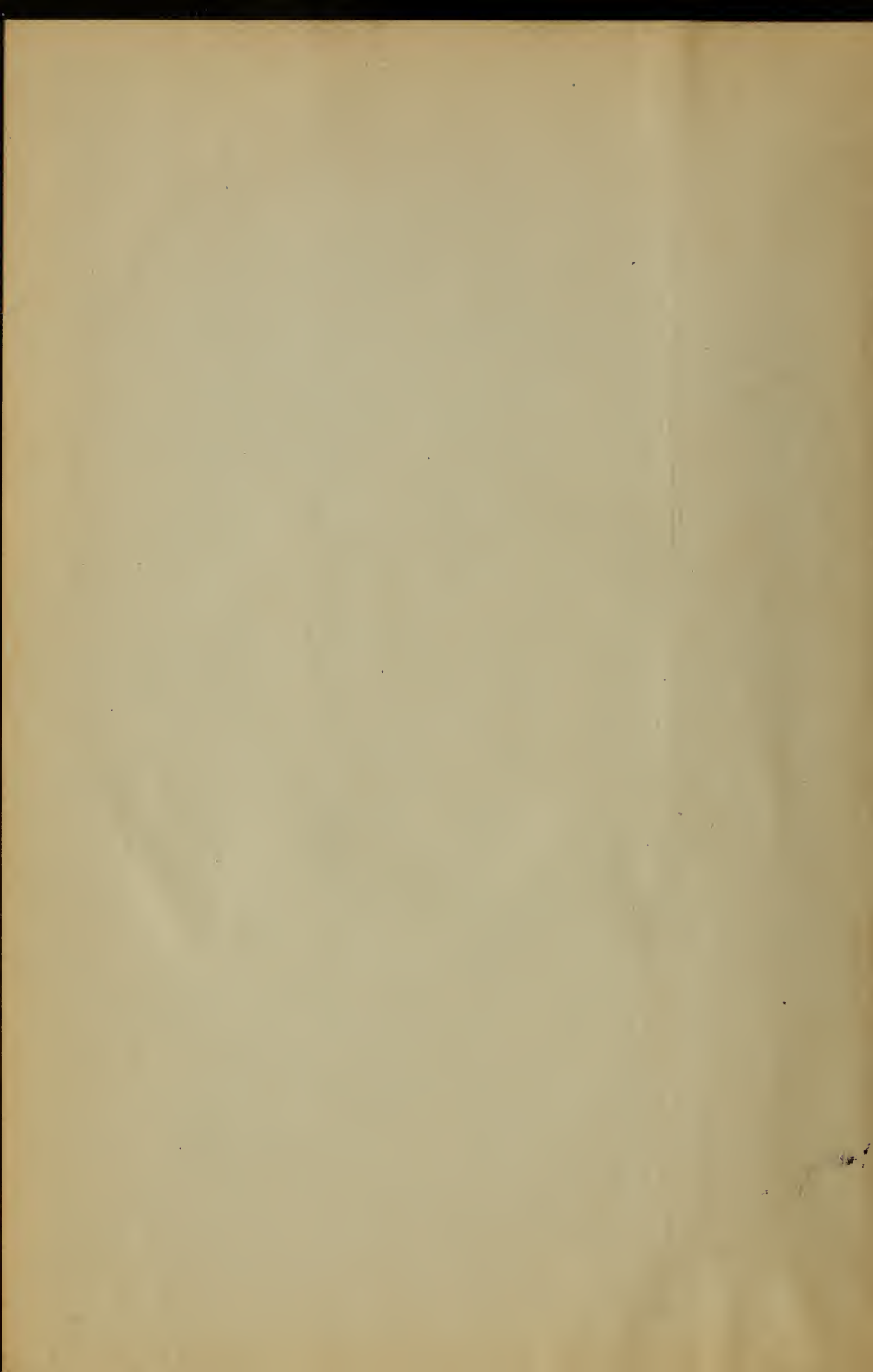
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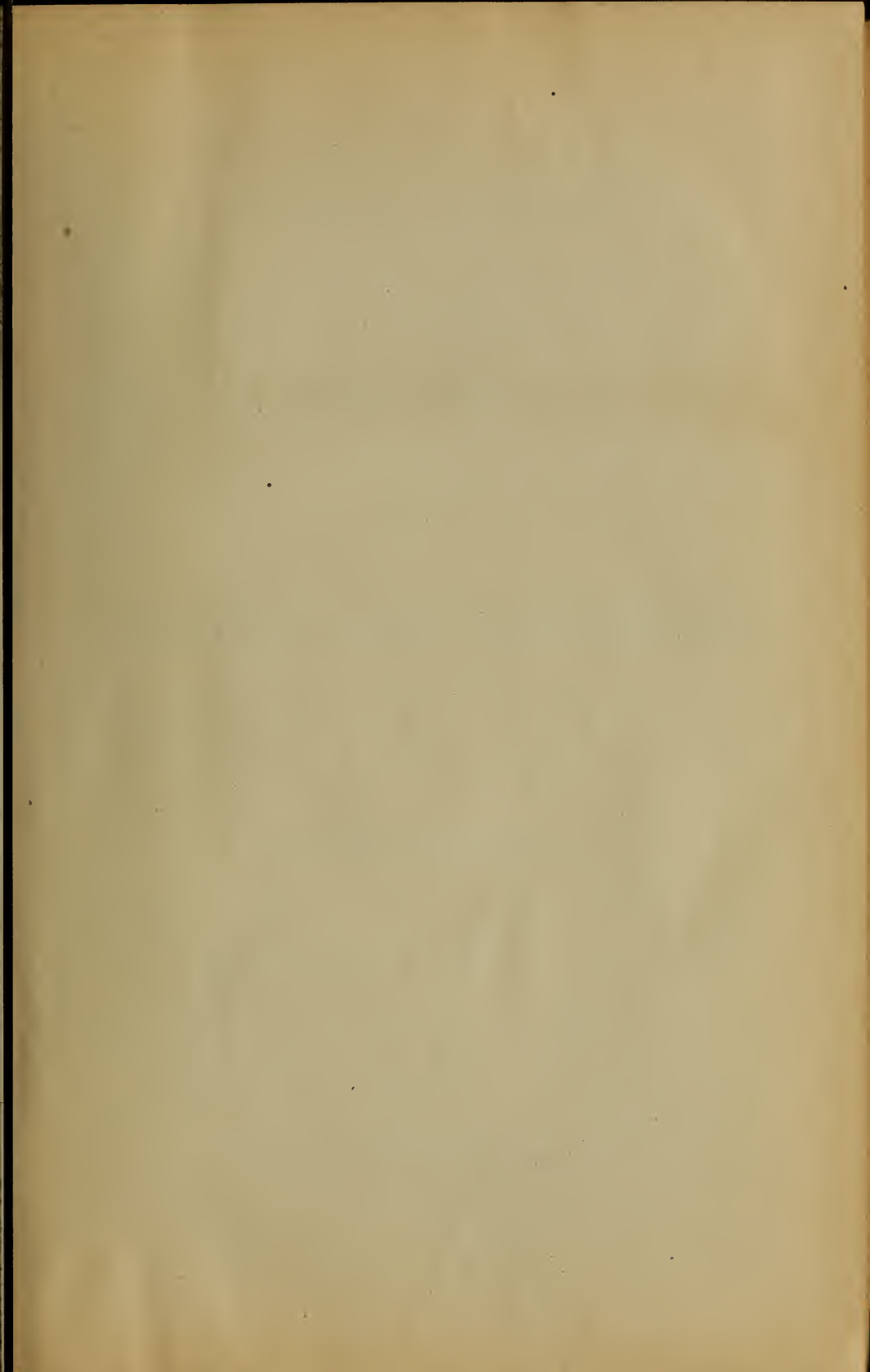


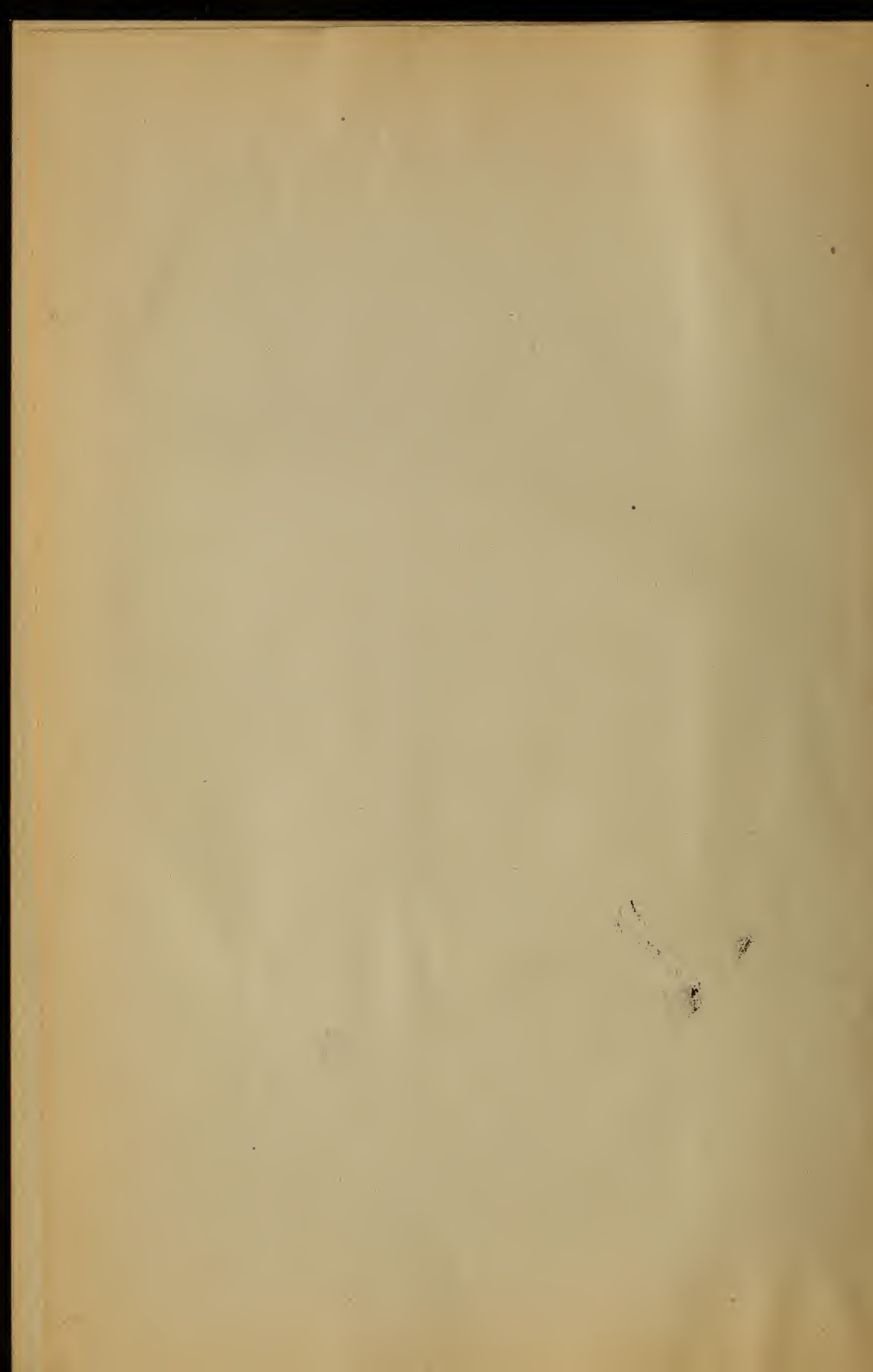












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TERRITORY OF DAKOTA.

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JOURNAL

OF THE

Constitutional Convention

OF

SOUTH DAKOTA.

JULY, 1889.

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SIoux FALLS, S. D.  
BROWN & SAENGER, PRINTERS AND BINDERS.  
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# Journal of the Convention.

## FIRST DAY.

TERRITORY OF DAKOTA,  
HALL OF THE CONSTITUTIONAL CONVENTION  
OF SOUTH DAKOTA,  
SIOUX FALLS, July 4, 1889.

At the hour of 12 o'clock, meridian, on this 4th day of July, 1889, the day and hour appointed by law, the members elect of the constitutional convention of South Dakota assembled in Germania hall at Sioux Falls, and were called to order by Hon. Dighton Corson of Lawrence, one of their number.

Prayer was offered by Rev. L. N. Stratton of Sioux Falls.

The proclamation of the Governor, proclaiming the election of delegates to this convention, was read by E. W. Caldwell, a delegate from Minnehaha county, and was accepted as evidence of said election.

The roll as contained in said proclamation, after being corrected, was called as follows:

From the  
First District.....Sanford Parker of Fall River.  
Valentine T. McGillicuddy of Pennington.  
Chauncey L. Wood of Pennington.  
Second District.....Dighton Corson of Lawrence.  
William S. O'Brien of Lawrence.  
Charles M. Thomas of Lawrence.  
Third District.....S. A. Wheeler of Butte.  
Thomas W. Thompson of Lawrence.  
John Scollard of Lawrence.

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- Fourth District.....William McCusick of Roberts.  
Henry Neill of Grant.  
C. R. Wescott of Deuel.
- Fifth District.....William Cook of Marshall.  
W. G. Dickinson of Day.  
George H. Culver of Day.
- Sixth District.....Martin R. Henninger of Brown.  
Lyman T. Boucher of McPherson.  
Harry T. Craig of Campbell.
- Seventh District.....S. F. Brott of Brown.  
William Stoddard of Brown.  
M. P. Stroupe of Brown.
- Eighth District.....H. A. Humphrey of Faulk.  
J. G. Davies of Edmunds.  
Peter Couchman of Walworth.
- Ninth District.....J. F. Wood of Spink.  
Thomas Sterling of Spink.  
T. W. P. Lee of Spink.
- Tenth District.....John F. Whitlock of Potter.  
David Hall of Sully.  
Chas. H. Price of Hyde.
- Eleventh District.....C. G. Hartley of Hand.  
S. F. Huntley of Jerauld.  
R. C. Anderson of Buffalo.
- Twelfth District.....A. G. Kellam of Brule.  
J. V. Willis of Aurora.  
H. F. Fellows of Aurora.
- Thirteenth District.....C. H. Van Tassel of Sanborn.  
L. H. Hole of Beadle.  
George C. Cooper, of Beadle.
- Fourteenth District.....Carl G. Sherwood of Clark.  
W. H. Matson of Kingsbury.  
S. D. Jeffries of Clark.
- Fifteenth District.....E. E. Clough of Codington.  
S. S. Peck of Hamlin.  
S. B. VanBuskirk of Codington.
- Sixteenth District.....I. Atkinson of Brookings.  
I. R. Spooner of Kingsbury.  
Joshua Downing of Brookings.
- Seventeenth District.....H. W. Eddy of Miner.  
F. G. Young of Lake.  
R. F. Lyons of Lake.



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Eighteenth District.....	Andrew J. Berdahl of Minnehaha. H. M. Williamson of Moody. C. S. Gifford of Minnehaha.
Nineteenth District.....	William VanEps of Minnehaha. Clark G. Coats of Minnehaha. E. W. Caldwell of Minnehaha.
Twentieth District.....	William Elliott of Turner. A. B. McFarland of Lincoln. J. A. Fowles of Lincoln.
Twenty-first District.....	John L. Jolley of Clay. A. O. Ringsrud of Union. J. Kimball of Union.
Twenty-second District....	Edward G. Edgerton of Yankton. Christian Buechler of Hutchinson. C. J. B. Harris of Yankton.
Twenty-third District.....	William T. Williams of Bon Homme. Robert A. Smith of Charles Mix. Joseph Zitka of Bon Homme.
Twenty-fourth District ....	A. J. Edgerton of Davison. Charles A. Houlton of Douglas. S. A. Ramsey of Sanborn.
Twenty-fifth District.....	W. H. Goddard of McCook. W. H. Murphy of Hanson. T. F. Diefendorf of McCook.

All of said delegates elect responded to the call except Charles M. Thomas, J. G. Davies, R. C. Anderson, E. E. Clough and Clark G. Coats.

The oath of office was then taken and subscribed by the members elect there present, administered by the Hon. Bartlett Tripp, Chief Justice of the Supreme Court of the Territory of Dakota.

Mr. Spooner of Kingsbury nominated for president, A. J. Edgerton of Davison.

Mr. Price of Hyde nominated S. B. VanBuskirk of Codington.

On motion

The convention proceeded to the election of a president.

Messrs. McGillicuddy and Caldwell being designated as tellers,

The calling of the roll was commenced, but before completion, was dispensed with by consent, Mr. VanBuskirk having withdrawn his name, and the election of A. J. Edgerton was

made by acclamation, unanimously, and he was declared the duly elected president of the convention.

Messrs. Spooner and VanBuskirk were appointed to escort the president-elect to the chair.

On motion of Mr. Wescott of Deuel

E. W. Caldwell of Minnehaha was by acclamation elected temporary clerk.

On motion of Mr. Jolley of Clay

A committee of five on rules and order of business was appointed by the chair as follows:

Messrs. Jolley of Clay, Wood of Pennington, Clough of Codington, Humphrey of Faulk and Young of Lake.

Mr. Kellam moved

That the president of the convention be requested to communicate by telegraph the greetings and congratulations of the constitutional convention of South Dakota, to the constitutional conventions of North Dakota, Montana and Washington.

Mr. Van Tassel moved

That the president appoint a committee of three to confer with the convention of North Dakota as to the size of the joint committee to be selected by the two conventions as provided by law.

Mr. Wescott moved

That the matter be referred to the committee on rules,

Which motion prevailed,

There being sixty-one votes cast,

Of which thirty-six were in the affirmative and twenty-five in the negative.

Mr. Caldwell moved

That the rules of the constitutional convention of 1885 shall govern the proceedings of this body, so far as they may be applicable, until the adoption of the report of the committee on rules,

Which motion prevailed.

Mr. Neill moved

That the convention do now adjourn until Friday, July 5, at 2 P. M.,

Which motion prevailed.

E. W. CALDWELL, Clerk.

## SECOND DAY.

SIOUX FALLS, DAK., July 5, 1889.

2 o'clock P. M.

The convention was called to order by Mr. Kellam of Brule, in the absence of the president.

Mr. Kellam submitted the following note, as indicating the request of the president to act in his stead:

SIOUX FALLS, DAK., July 4, 1889.

HON. A. G. KELLAM:

Will you please act as president, *pro tem*, of the convention under the rules, during my absence. A. J. EDGERTON.

Prayer was offered by Rev. J. A. Wakefield.

The roll was called and all of the delegates responded except Charles M. Thomas, Clark G. Coats and Mr. President.

The following delegates presented themselves and took the oath of office:

E. E. Clough of Codington,

J. G. Davies of Edmunds.

R. C. Anderson, of Hand.

The minutes of the first day's proceedings were read and the following corrections made:

On page 1 of the journal as printed, line "John Scollard of Lawrence," was made to read "John Scollard of Meade."

On page 2, the line "George H. Culver of Day" was made to read "George H. Culver of Marshall."

The line "R. C. Anderson of Buffalo" was made to read "R. C. Anderson of Hand."

The line "R. F. Lyons of Lake" was made to read "R. F. Lyons of Miner."

On page 3 the line "J. Kimball of Union" was made to read "J. Kimball of Clay."

The absence of Mr. Clough, as noted in the minutes, was by consent excused, for the reason that he was engaged in the delivery of the oration at the Independence celebration being held in the city.

## PETITIONS AND COMMUNICATIONS.

The following communications were read by the Clerk *pro tem*:

BISMARCK, DAKOTA, July 4, 1889.

*To the Constitutional Convention of South Dakota, Sioux Falls, Dakota:*

The constitutional convention of North Dakota sends greeting and bids you God speed in your advance movement towards statehood and full American citizenship. May the four new stars about to be added to the national flag not lose in brilliancy through lack of care in laying the foundations of the states to be. Let Washington bring fruits and flowers, Montana its precious metals to add to the beauty and wealth of the nation, while the Dakotas will bring wheat and corn to feed the people of the world.

F. B. FANCHER,  
President.

OLYMPIA, WASHINGTON TERRITORY, July 4, 1889.

HON. A. J. EDGERTON,

*President South Dakota Constitutional Convention, Sioux Falls, Dakota:*

The Washington constitutional convention returns greeting to the South Dakota convention.

The time is auspicious. The Empire state of the Pacific northwest will join her sister in every onward development.

J. G. MOORE, Chairman.

The clerk *pro tem*. made verbal communication to the convention that Mr. C. W. Hubbard, representing Hon. L. B. Richardson, secretary of the Territory, desired to know the number of journals which the convention considered necessary should be printed daily.

On motion of Mr. Sterling

It was ordered that two hundred copies of said journal be printed.

## UNFINISHED BUSINESS.

Mr. Neill moved

That the convention now proceed to completion of its permanent organization by the election of subordinate officers,

Which motion prevailed.

The chair appointed Messrs. Sterling and Elliott as tellers.

Mr. Edgerton of Yankton nominated F. A. Burdick of Yankton for chief clerk, and

Mr. VanEps nominated W. W. Goddard of Sioux Falls.



By consent the vote was taken by call of the roll, and there were 71 votes cast, of which Mr. Burdick had 50 and Mr. Goddard 21.

Mr. Burdick was thereupon declared duly elected chief clerk of the convention.

Mr. Westcott nominated Dr. A. W. Hyde of Brookings for enrolling and engrossing clerk, and

Mr. Harris nominated James Kingsbury of Yankton.

There were 69 ballots cast, of which Dr. Hyde had 50 and Mr. Kingsbury 19.

Dr. Hyde was declared duly elected enrolling and engrossing clerk of the convention.

Mr. Corson nominated James Carney of Deadwood sergeant-at-arms, and

Mr. VanBuskirk nominated W. T. Buchanan of Sioux Falls.

There were 71 votes cast of which Mr. Carney had 50 and Mr. Buchanan 21.

Mr. Carney was declared duly elected sergeant-at-arms of the convention.

Mr. Dickinson nominated E. C. Warner of Webster as watchman,

And he was declared duly elected by acclamation.

Mr. Matson nominated Frank Hoppin of Iroquois as messenger, and

Mr. Anderson nominated P. D. Derflinger of Hand.

There were 71 votes cast, of which Mr. Hoppin had 48 and Mr. Derflinger 23.

Mr. Hoppin was declared duly elected messenger of the convention.

Mr. Willis nominated Rev. J. A. Wakefield of Brookings as chaplain, and

Mr. Ramsey nominated Bishop W. H. Hare of Sioux Falls. There were 71 votes cast, of which Mr. Wakefield had 45 and Mr. Hare 26.

Mr. Wakefield was declared duly elected chaplain of the convention.

#### RESOLUTIONS.

Mr. Sherwood offered the following resolution and moved its adoption;

The constitutional convention of South Dakota, now duly assembled and organized, does hereby declare on behalf of the people of said state, that we do hereby adopt the constitution of the United States

The question being upon the adoption of the resolution, the same was determined by a rising vote; there were 73 votes cast, of which 73 were in the affirmative and none in the negative, and the resolution was declared duly adopted, as required by the Act of Congress providing for this convention.

## REPORTS OF COMMITTEES.

Mr. Jolley, as chairman of the committee on Rules, submitted the following partial report:

SIoux FALLS, Dakota, July 5, 1889.

MR. PRESIDENT:

Your Committee on Rules have instructed me to report that the Joint Commission on the part of South Dakota, "to agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records and adjust and agree upon the amount of debts and liabilities of the Territory" shall consist of seven members, to be appointed by the president of this convention; that said commission be entitled to a clerk, and to employ such assistance as they shall deem necessary.

JOHN L. JOLLEY,  
Chairman.

On motion of Mr. Price consideration of the resolution was made a special order for to-morrow.

## NEW BUSINESS.

Mr. Price moved the appointment of a commission of three to confer with a like commission from the constitutional convention of North Dakota, to definitely determine the boundary between the two states.

By consent consideration of this motion was made a special order for tomorrow.

The following subordinate officers took the oath of office and entered upon the discharge of their duties:

F. A. Burdick, Chief Clerk,  
James Carney, Sergeant at Arms,  
And Frank Hoppin, Messenger.

On motion of Mr. Neill the convention adjourned until 2 o'clock P. M., Saturday, July 6th.

### THIRD DAY.

SIoux FALLS, DAK., July 6, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer was offered by Chaplain J. A. Wakefield.

The enrolling and engrossing clerk, Dr. A. W. Hyde, having taken oath of office on yesterday, July 5th, took his place at his desk at the opening of the convention.

The minutes of the second day's meeting were read, and there being no corrections, were approved.

Mr. Clark G. Coats of Minnehaha being present was duly sworn in by Joseph Kirby, notary public.

Upon motion Roll call was dispensed with.

#### COMMUNICATIONS.

A communication from the Montana Constitutional Convention was received, reading as follows :

HELENA, MONTANA, July 5, 1889.

TO HON. A. J. EDGERTON:

Montana, standing on the threshold of statehood, reciprocates your cordial greeting, and indulges the hope that the constitution which you have met to frame may be based upon the virtues and intelligence of the people, and when so framed, it may survive the years to come in all its vigor, unimpaired, until a hundred sovereign states shall have been erected into one confederacy; there to remain an indestructible and indissoluble union.

(Signed), J. K. TOOLE,  
Temporary Chairman.

#### SPECIAL ORDER OF THE DAY.

On motion of Mr. A. G. Kellam of Brule, the convention went into committee of the whole to consider special order of the day, whereupon the president called Mr. Thomas Sterling of Spink to the chair.

The committee of the whole arose and submitted their report through their chairman, Mr. Sterling favoring the adoption of the special report of the committee as follows:

SIoux FALLS, Dakota, July 5, 1889.

MR. PRESIDENT:

Your Committee on Rules have instructed me to report that the Joint Commission on the part of South Dakota, "to agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records and adjust and agree upon the amount of debts and liabilities of the "Territory" shall consist of seven members, to be appointed by the president of this convention; that said commission be entitled to a clerk, and to employ such assistance as they shall deem necessary.

JOHN L. JOLLEY,  
Chairman.

Report adopted.

The special order offered by Mr. Price relative to boundaries

By general consent was referred to the committee on Boundaries.

#### REPORTS OF COMMITTEES.

The committee on Rules reported  
Through Mr. J. L. Jolley, chairman.

SIoux FALLS, DAKOTA, July 6, 1889.

MR. PRESIDENT:

Your committee on rules and order of business have had the subject committed to our charge under consideration, and beg leave to submit the following report, consisting of a list of the standing committees and their number.

The standing committees of the convention shall consist of the following and such as have been or may be created by the convention.

We recommend the following standing committees:

1. Judiciary—13 members.
2. Executive and Administrative—7 members.
3. Legislative—7 members.
4. Bill of Rights—5 members.
5. Rights of Elections and Suffrage—7 members.
6. Name, Boundaries and Seat of Government of State—7 members.
7. Federal Relations—5 members.
8. Education and School Lands—9 members.
9. Municipal Corporations—5 members.



10. Corporations other than Banking and Municipal—7 members.
11. County and Township Organization—7 members.
12. State, County, and Municipal Indebtedness—9 members.
13. Revenue and Finance—7 members.
14. Public Accounts and Expenditures—7 members.
15. State Institutions and Public Buildings—Including Penitentiaries and other Reformatory Institutions—9 members.
16. Congressional and Legislative Apportionment—25 members.
17. Mines, Mining and Water Rights—7 members.
18. Roads, Bridges, and other Internal Improvements—7 members.
19. Exemptions and Personal—9 members.
20. Rights of Married Women—7 members.
21. Banking and Currency—7 members.
22. Military Affairs—7 members.
23. Amendments and Revision of the Constitution—7 members.
24. Printing—5 members.
25. Seal of State, Coat of Arms and Design of Same—7 members.
26. Schedule and Submissions—25 members.
27. Miscellaneous Subjects—7 members.
28. Compensation of Public Officers and Members—7 members.
29. Arrangement and Phraseology of the Constitution—9 members.
30. Manufacturers and Agriculture—9 members.
31. Expenses of the Convention—7 members.
32. Engrossment and Enrollment—5 members.

We have submitted for the consideration of the convention the following Rules for the government of its proceedings and the number of employes which your committee deemed necessary to an orderly and prompt conduct of business of the convention, and we have also considered and reported what we, your committee, deem a just, but very reasonable compensation for the services of such employes, all of which is respectfully submitted.

## RULES.

1. A majority of the members of the convention, who shall have qualified and not been excused by order of the convention shall constitute a quorum, but a small number may adjourn from day to day.

2. The convention shall keep a Journal of its proceedings which shall be preserved, and upon the adjournment deposited with the president of the convention to be by him filed with the secretary of state or other keeper of the archives of the State of South Dakota as soon as said officer shall be elected and qualified, and to be hereafter disposed of as provided by law. And such proceedings shall be published in pamphlet form for general distribution.

3. Two members shall be sufficient to demand the yeas and nays on any question and when so demanded they shall be entered on the Journal.

4. Any member shall have liberty to have entered upon the Journal his protest and dissent against any act or resolution when such protest and dissent shall be made in writing in respectful and brief language, and filed with the secretary, and such entry shall be made without debate.

5. The convention may, with the concurrence of two-thirds of all the members present, expel a member, and the reasons therefor shall be entered on the Journal.

6. The sergeant-at-arms and doorkeeper shall not permit any person not a member or officer or employe of this convention, to pass inside the railing at any time during the sessions, except reporters of the press, duly assigned as such by the president of the convention, and such other persons as shall be invited therein by the president or the convention.

7. No smoking shall be allowed in said hall during the sessions of the convention, and no person shall be permitted to manifest any signs of approbation or disapprobation, either on the floor or in the lobby.

8. The president shall take the chair at the hour to which the convention shall have adjourned, shall immediately call the convention to order, and on the appearance of a quorum shall cause the Journal of the preceding day to be read, unless such reading shall be dispensed with by order of the convention. He shall preserve order and decorum, shall decide questions of order, subject to an appeal to the convention by any one member, on

which appeal no member shall speak more than once, unless by leave of the convention.

9. Except where the yeas and nays are demanded, as in these rules provided, all questions shall be determined either by putting them in the ordinary mode, or a division be called for, by rising from the seats, unless count by tellers is ordered.

10. The president shall examine and correct the Journal before it is read, he shall leave the general direction and control of the hall, and may name any member to perform the duties of the chair, but such substitution cannot extend beyond three days, and such substitute, during such time, shall be vested with all the powers of the president.

11. All committees shall be appointed by the president, unless otherwise ordered by the convention.

12. If any member, in speaking or otherwise, shall transgress the rules of the convention, the president shall, or any member may, call him to order, in which case the member so called to order shall immediately sit down unless permitted to explain, and if appeal is taken to the convention, a decision shall be had without debate; but this rule shall not apply to the point of order raised under provisions of rule 8.

13. Every member who shall be within the bar of the convention when a motion shall be stated from the chair, shall vote thereon, unless he shall be excused. Any member desiring to be excused from voting shall make his request before the roll-call shall be commenced; he may then state concisely, without argument, his reasons for asking to be excused, and the question of excusing shall be taken without debate.

14. Every motion shall be reduced to writing if the president or any member requests it.

15. After a motion is stated by the president, or read by the secretary, it shall be deemed in the possession of the convention but may be withdrawn at any time before decision or amendments, with the consent of the convention.

16. When a question is under debate, no motion shall be received but to adjourn, call the house, lay on the table, the previous question, to postpone indefinitely, to postpone to a day certain, to commit, or amend; which several motions shall have precedence in the order in this rule stated.

17. A motion to adjourn shall always be in order, and be decided, as well as the motion to lay on the table without debate.

18. No motion to postpone to a day certain, or indefinitely,

or to commit, being decided in the negative, shall be again allowed on the same day or at the same stage of the proposition.

19. Motion to strike out the proposition shall have precedence of a motion to amend, and, if carried shall be equivalent to its rejection.

20. When a blank is to be filled, and different sums, times, or quantities are proposed, the question shall first be put on the largest sum or quantity and the longest time.

21. If the question in debate contains several propositions, any member may have the same divided, and on a motion to strike out and insert, it shall be in order to move for a division of the question, and the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition, nor prevent a subsequent motion to strike out only, nor shall the rejection of a motion to strike out only prevent a subsequent motion to strike out and insert.

22. When a question has been once put and decided it shall be in order for a member voting with the majority to move for a reconsideration thereof on the same or during the two succeeding business days, but not afterwards. Such motion shall take precedence of all other questions, except a motion to adjourn.

23. When motions are made for a reference of the same subject to a select committee and to a standing committee, the question of reference to a standing committee shall be first put.

24. A motion to commit and a motion to postpone indefinitely or to a day certain, until decided, shall preclude all amendments on the main question.

25. No motion or proposition on a subject different from that under consideration shall be admitted under color of an amendment.

26. A motion to lay an amendment on the table being sustained shall not have the effect to convey to the table any proposition except what is contained in the amendment.

27. The previous question shall be always in order, and shall be put in this form: "Shall the main question be now put?" And until it is decided shall preclude all amendments or debate.

28. When on moving the previous question, the Convention shall decide in the negative, the main question shall be considered as still under debate.

29. The effect of the main question, being ordered shall be



to put an end to all debate and bring the Convention to a direct vote; First, on all amendments reported or pending, the last amendment moved being first considered, and then on the main question.

30. After the motion for the previous question has prevailed, it shall not be in order to move a call of the Convention prior to a decision of the main question.

31. No call of the Convention shall be ordered except upon the demand of one-third of all the members present at the time the call is demanded.

32. The unfinished business on which the Convention was engaged at its last adjournment shall at the next meeting of the Convention, have precedence of all other business except as provided in the order of business.

33. All motions and resolutions not pertaining to the current business of the Convention, shall be, upon being read, referred by the president to the appropriate committee without debate.

34. The hour of meeting shall be 2 o'clock P. M. daily except Sunday until otherwise ordered.

35. Order of business.

1. Reading the Journal.

2. Communications and presentations of petitions.

3. Unfinished business of the previous day.

4. Reports from standing committees.

5. Consideration of reports of standing committees.

6. Reports from select committees.

7. Consideration of reports of select committees.

8. Presentation of resolutions and propositions relating to the constitution.

36. It shall be the duty of the secretary to keep a journal in which he shall record all the proceedings of the convention, and to do and perform such other acts appertaining to his office as may be required of him by the convention or its presiding officers.

37. It shall be the duty of the watchman to perform such acts as may be required of him by the secretary of the convention or its presiding officers.

38. It shall be the duty of the sergeant-at-arms to attend the convention during its sittings, and to execute the commands of the convention from time to time.

39. No rule of the convention shall be altered, suspended

or recinded without the vote of two-thirds of the members present.

40. The rules of parliamentary practice comprised in Jefferson's Manual shall govern the convention in all cases in which they are applicable and not inconsistent with the standing rules and orders of the convention.

41. The first named member of any committee shall be its chairman, and in his absence, or in case he is excused by the convention, the next named member shall constitute its chairman and so on, unless the committee, in case of the absence of the first named member, shall by majority of the members of said committee, elect a chairman.

42. It shall be the duty of the engrossing and enrolling committee to supervise the transcript to be furnished to them by the stenographers and all matter for publication.

43. There shall be employed by this convention two stenographers at ten dollars per day each and twenty-five cents per folio for one transcript of the proceedings of this convention.

Two pages at two dollars per day each.

One clerk for the Congressional and Legislative Apportionment committee at five dollars per day.

One clerk for the Judiciary committee at five dollars per day.

One clerk for the Schedule and Submission committee at five dollars per day.

All persons employed by this convention shall be paid from appropriations now, or hereafter to be made.

44. The employes herein provided for shall be appointed from time to time by the president of this convention, and be subject to removal by him, unless ordered by the convention, except stenographers who shall be elected by this convention.

All of which is respectfully submitted.

JOHN L. JOLLEY.  
CHAUNCEY L. WOOD.  
E. E. CLOUGH.  
H. A. HUMPHREY.  
F. G. YOUNG.

On motion of Mr. J. L. Jolley

The convention proceeded to vote on the adoption of the Rules as read.

Mr. C. R. Westcott moved

To amend by voting on section by section.

Amendment lost.

Moved by Mr. Huntley

To strike out (2) and insert (5) in rule No. 3.

Amendment lost.

And the principal motion being put

Prevailed.

On motion of Dr. I. R. Spooner

All members of previous Dakota constitutional conventions were accorded the privileges of the floor.

Moved by Mr. Neill

That Messrs Ivan W. Goodner of Huron, and Theron G. Brown of Sioux Falls, be employed by this convention as stenographers.

Carried.

Moved by Mr. Neill

That 500 extra copies of the Journal be provided for the use of the convention.

Upon motion of Mr. Anderson

It was referred to the committee on Printing.

Moved by Mr. Jolley

That 300 extra copies of the Rules be printed for the convention.

Moved by Mr. Kellam

To amend by making the number 150.

Upon a division of the house the vote stood

49 yeas; 22 nays.

Carried.

Whereupon Mr. Harris moved

A substitute providing 300 extra copies of to-day's Journal which should contain the rules for the use of the convention.

Substitute carried.

Moved by Mr. Humphrey

That the president of this convention be instructed to inform the constitutional convention of North Dakota by telegram that the constitutional convention of South Dakota has provided for a commission of seven (7) to agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, to adjust and agree upon the amount of debts and liabilities of the Territory to be assumed by each.

Motion prevailed.

Moved by Mr. Young

That 100 copies of the omnibus bill be procured from the Secretary of the Interior for the use of the convention.

Moved by Mr. Coats

That the motion be laid on the table.

By permission of the house Mr. Young withdrew his motion.

Moved by Mr. Buechler

To adjourn until Monday at 2 P. M.

Carried.

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### FIFTH DAY.

SIoux FALLS, DAKOTA, July 8, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer by the Chaplain, Rev. J. A. Wakefield.

The president announced

As pages the names of Albert J. Keith and Charley C. Walts.

Journal of third day's session read and after the following corrections, were approved:

Line 2 on page 9 amended to read, "bound" copies instead of "extra."

Line 12, page 9, amended to read Mr. Dickinson instead of Mr. Harris.

Line 31, page 9, amended to read Mr. Price instead of Mr. Coats.

Mr. E. C. Warner, watchman elect, having taken oath of office on July 6th was present.

### UNFINISHED BUSINESS.

The president announced

The following special committee to form a part of the joint commission to proceed to Bismarck under the Omnibus bill, viz:

Messrs. Kellam of Brule, McGillicuddy of Pennington, Neill of Grant, Caldwell of Minnehaha, Elliott of Turner, Price of Hyde and Brott of Brown.

On motion

Mr. Coats was excused for absence the first two days of the convention.



REPORTS OF SELECT COMMITTEES.

Mr. Jolley, for the committee on rules, moved

That the words "two pages" in line 4 of rule 43 be stricken out and the words "three pages" be inserted in lieu thereof.

Motion carried.

Mr. Young introduced

The following and moved its adoption:

*Resolved*, That a committee of five be appointed whose duty it shall be to procure from the President the original and authentic engrossed and certified copy of the constitution, and procure the same to be carefully and correctly copied, and to have the same carefully and correctly printed under their supervision and laid upon the desks of the members; and the same committee be instructed to procure and place upon the tables of the members carefully and correctly printed copies of the Enabling Act under which this convention has assembled; the same committee be also instructed to procure from H. M. Avery, the assistant secretary of the last convention, the engrossed copy of the constitution in his possession, and that the same committee be instructed to carefully compare said copies with a view to the correction of any mistakes.

Motion lost.

Mr. Caldwell moved

To reconsider the motion of last session by which the number of bound copies was referred to the Committee on Printing.

Motion carried.

Mr. Neill moved

That 500 bound copies of complete journal be provided for the use of the convention.

Motion carried.

Mr. Peck moved

That six copies be furnished each member, the remaining numbers to be left in the Territorial library.

Motion carried.

Mr. Goddard

Was excused from attendance upon to-morrow's session.

The President announced

As the additional page the name of Frank E. Clough.

On motion of Mr. Price

The convention adjourned.

## SIXTH DAY.

SIOUX FALLS, Dakota, July 9, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer by the chaplain, Rev. J. A. Wakefield.

The journal read and approved with correction of line one, page one, to read "fifth day."

The president

Reported the following committees:

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.—Van Tassel of Sanborn, Parker of Fall River, O'Brien of Lawrence, Thompson of Lawrence, McCusick of Roberts, Culver of Marshall, Heninger of Brown, Stroupe of Brown, Davies of Edmunds, Lee of Spink, Hall of Sully, Huntley of Jerauld, Willis of Aurora, Matson of Kingsbury, Clough of Codington, Atkinson of Brookings, Lyons of Miner, Williamson of Moody, Coats of Minnehaha, Fowles of Lincoln, Ringsrud of Union, Edgerton of Yankton, Zitka of Bon Homme, Houlton of Douglass, Diefendorf of McCook.

JUDICIARY—Sterling of Spink, Humphrey of Faulk, Williams of Bon Homme, Cooper of Beadle, Ramsey of Sanborn, Corson of Lawrence, Wood of Pennington, Sherwood of Clark, VanBuskirk of Codington, Berdahl of Minnehaha, Eddy of Miner, Harris of Yankton, Fellows of Aurora.

SCHEDULE—Hole of Beadle, Jolley of Clay, Spooner of Kingsbury, Scollard of Meade, Westcott of Deuel, Dickinson of Day, Boucher of McPherson, Stoddard of Brown, Couchman of Walworth, Wood of Spink, Whitlock of Potter, Hartley of Hand, Fellows of Aurora, Jeffries of Clark, Peck of Hamlin, Parker of Fall River, Corson of Lawrence, Berdahl of Minnehaha, VanEps of Minnehaha, Buechler of Hutchinson, Smith of Charles Mix, Ramsey of Sanborn, Murphy of Hanson, McFarland of Lincoln, Eddy of Miner.

NAME, BOUNDARIES AND SEAT OF GOVERNMENT—Stroupe of Brown, Edgerton of Yankton, VanEps of Minnehaha, Kim-

ball of Clay, Murphy of Hanson, Williams of Bon Homme, Wheeler of Butte.

STATE, COUNTY AND MUNICIPAL INDEBTEDNESS—Sherwood of Clark, Jolley of Clay, VanEps of Minnehaha, Ramsey of Sanborn, Diefendorf of McCook, Lee of Spink, Spooner of Kingsbury, Stroupe of Brown, Clough of Codington.

EXECUTIVE AND ADMINISTRATIVE—Westcott of Deuel, Dickinson of Day, Craig of Campbell, Anderson of Hand, Downing of Brookings, Gifford of Minnehaha, Murphy of Hanson.

LEGISLATIVE—McFarland of Lincoln, Ramsey of Sanborn, Zitka of Bon Homme, Jolley of Clay, Cook of Marshall, Coats of Minnehaha, Lyons of Miner.

BILL OF RIGHTS—Spooner of Kingsbury, VanBuskirk of Codington, Jeffries of Clark, Heninger of Brown, Dickinson of Day.

ELECTION AND SUFFRAGE—Stoddard of Brown, Craig of Campbell, Cook of Marshall, Westcott of Deuel, Scollard of Meade, O'Brien of Lawrence, Whitlock of Potter.

FEDERAL RELATIONS—Murphey of Hanson, Houlton of Douglass, Sherwood of Clark, Harris of Yankton, Kimball of Clay.

EDUCATION AND SCHOOL LANDS—Coats of Minnehaha, Humphrey of Faulk, Williamson of Moody, Young of Lake, Downing of Brookings, Peck of Hamlin, Matson of Kingsbury, Culver of Marshall, Huntley of Jerauld.

MUNICIPAL CORPORATIONS—Hall of Sully, Wood of Spink, Atkinson of Brookings, Cooper of Beadle, Fellows of Aurora.

CORPORATIONS OTHER THAN BANKING AND MUNICIPAL—Dickinson of Day, Thompson of Lawrence, Stroupe of Brown, Goddard of McCook, Jolley of Clay, Whitlock of Potter, Van Buskirk of Codington.

COUNTY AND TOWNSHIP ORGANIZATION—Whitlock of Potter, Atkinson of Brookings, Eddy of Miner, Berdahl of Minnehaha, Ramsey of Sanborn, Culver of Marshall, Fellows of Aurora.

REVENUE AND FINANCE—Goddard of McCook, Houlton of Douglass, Zitka of Bon Homme, Harris of Yankton, Ringsrud of Union, VanEps of Minnehaha, Boucher of McPherson.

PUBLIC ACCOUNTS AND EXPENDITURES—Ringsrud of Union, Scollard of Meade, Williams of Bon Homme, Williamson of Moody, Heninger of Brown, Davies of Edmunds, Willis of Aurora.

STATE INSTITUTIONS AND PUBLIC BUILDINGS—Young of Lake, VanEps of Minnehaha, Hartley of Hand, Downing of Brookings, Wood of Pennington, Smith of Charles Mix, Wood of Spink, Anderson of Hand, Buechler of Hutchinson.

MINES, MINING AND WATER RIGHTS—O'Brien of Lawrence, Parker of Fall River, Wheeler of Butte, Young of Lake, Jeffries of Clark, Couchman of Walworth, Fowles of Lincoln.

ROADS, BRIDGES AND OTHER INTERNAL IMPROVEMENTS—Smith of Charles Mix, Ringsrud of Union, Berdahl of Minnehaha, Atkinson of Brookings, Anderson of Hand, Couchman of Walworth, Craig of Campbell.

EXEMPTIONS—Buechler of Hutchinson, Fowles of Lincoln, Coats of Minnehaha, Lyons of Lake, Peck of Hamlin, Jeffries of Clark, Cooper of Beadle, Culver of Marshall, Heninger of Brown.

RIGHTS OF MARRIED WOMEN—Willis of Aurora, Hall of Sully, Davies of Edmunds, Craig of Campbell, Wheeler of Butte, Thompson of Lawrence, Diefendorf of McCook.

BANKING AND CURRENCY—Davies of Edmunds, Huntley of Jerauld, McCusick of Roberts, Gifford of Minnehaha, McFarland of Lincoln, Buechler of Hutchinson, Ramsey of Sanborn.

MILITARY AFFAIRS—Clough of Codington, Matson of Kingsbury, Lee of Spink, McCusick of Roberts, Zitka of Bon Homme, Goddard of McCook, Kimball of Clay.

AMENDMENTS AND REVISION OF THE CONSTITUTION—Boucher of McPherson, Stoddard of Brown, Cook of Marshall, O'Brien of Lawrence, Downing of Brookings, Gifford of Minnehaha, Harris of Yankton.

PRINTING—Humphrey of Faulk, Hole of Beadle, Sterling of Spink, Couchman of Walworth, Hall of Sully.

SEAL—Houlton of Douglass, Zitka of Bon Homme, Kimball of Clay, McCusick of Roberts, Scollard of Meade, Humphrey of Faulk, Wood of Spink.

MISCELLANEOUS SUBJECTS—Eddy of Miner, Van Tassel of Sanborn, Hartley of Hand, Cook of Marshall, Stoddard of Brown, Williams of Bon Homme, Parker of Fall River.

COMPENSATION OF PUBLIC OFFICERS—Williamson of Moody, Fowles of Lincoln, McCusick of Roberts, Anderson of Hand, Spooner of Kingsbury, Thompson of Lawrence, Wood of Pennington.

ARRANGEMENT AND PHRASEOLOGY—Corson of Lawrence, Goddard of McCook, Boucher of McPherson, Willis of Aurora,



Cooper of Beadle, Matson of Kingsbury, Vanbuskirk of Codington, Wood of Pennington, Young of Lake.

MANUFACTURES AND AGRICULTURE—Lee of Spink, Whitlock of Potter, Westcott of Deuel, Lyons of Miner, Gifford of Minnehaha, Kimball of Clay, Edgerton of Yankton, Diefendorf of McCook, Smith of Charles Mix.

EXPENSES OF THE CONVENTION—Huntley of Jerauld, Parker of Fall River, Fellows of Aurora, Jeffries of Clark, Williamson of Moody, McFarland of Lincoln, Sherwood of Clark.

ENGROSSMENT AND ENROLLMENT—Hartley of Hand, Peck of Hamlin, Lyons of Miner, Berdahl of Minnehaha, Wheeler of Butte.

#### PETITIONS AND RESOLUTIONS.

Mr. Williams of Faulk presented

A petition from the society of Mennonites asking to be excused from military duty.

Referred to the Committee on Military Affairs.

Mr. Kellam offered the following resolution and moved its adoption.

Motion carried.

WHEREAS, By resolution of this convention authorizing the same, the president of this convention has named and appointed as the members of the joint commission on the part of South Dakota to agree upon an equitable division of the property belonging to the Territory of Dakota; the disposition of all public records, and adjust and agree upon the amount of the debts and liabilities of the territory, which should be assumed and paid by each of the states of North Dakota and South Dakota, the following named members of the convention, to-wit:

A. G. Kellam, V. T. McGillicuddy, Henry Niell, E. W. Caldwell, Wm. Elliott, C. H. Price, S. F. Brott.

*Now, be it Resolved*, That the aforesaid appointment by the president be, and the same is, by this convention hereby adopted and in all things confirmed.

Mr. Clough moved

A reconsideration of the motion providing the number of the daily journal.

Carried.

On motion of Mr. Clough

The original motion was amended to read 500 copies instead of 200 copies.

Motion as amended carried.

Mr. Zitka moved

That the constitution of 1885 be read in this convention to-morrow, for the purpose of referring different subjects to appropriate committees,

Which motion prevailed.

Mr. Neill moved

An amendment to rule (33),

Which was referred to the Committee on Rules.

Mr. McGillicuddy introduced

A resolution relating to school lands,

Which was referred to the Committee on School Lands.

Mr. Clough introduced

A communication relative to public seal.

Referred to Committee on Public Seal.

Mr. Jeffries, of Clark,

Was excused till Monday.

Mr. Anderson, of Hand,

Was excused for two days.

Mr. Neill introduced

Resolution authorizing the President to excuse absentees.

Referred to the Committee on Rules.

Mr. Corson introduced

A resolution relating to public indebtedness.

Referred to Committee on State, County and Municipal Indebtedness.

Mr. Neill introduced

A resolution relative to election of clerks of the court.

Referred to Committee on Schedules.

Mr. Smith

Was granted leave of absence for to-morrow.

On motion of Mr. Ringsrud

The President was authorized to designate one of the official stenographers to accompany the Commission to Bismarck.

Mr. Coats

Was excused from attendance till Friday.

Mr. VanBuskirk

Was excused from attendance for three days.

Mr. Zitka moved to adjourn.

Carried.

SEVENTH DAY.

SIoux FALLS, Dakota, July 10, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer was offered by the chaplain.

On motion of Mr. Price

The reading of the journal was dispensed with, the vote standing

Ayes 30, Nays 19.

COMMUNICATIONS AND PETITIONS.

Mr. Spooner introduced

A resolution relative to the development of the artesian system of South Dakota.

Referred to the Committee on Federal Relations.

Mr. Jolley, from the Committee on Rules

Reported as follows:

SIoux FALLS, July 10, 1889.

MR. PRESIDENT:

Your Committee on Rules have instructed me to report that they recommend that Rule 33 should be amended to read as follows:

Rule 33. All motions and resolutions not pertaining to the current business of the convention, shall be, upon being read, referred by the President to the appropriate committee without debate, and such motion or resolution shall not be printed in the Journal until reported from committee.

And I am further instructed by the Committee on Rules to report that they recommend an additional rule for the government of this convention, to wit:

Rule 45. That the President of this convention is authorized and empowered to grant leave of absence to any member of this convention for a period not to exceed three days.

JOHN L. JOLLEY,

Chairman.

Report adopted.

## RESOLUTIONS AND PROPOSITIONS RELATING TO THE CONSTITUTION.

Mr. Sterling presented

A resolution relative to leasing of school lands,  
Which was referred to the Committee on Education and  
School Lands.

Mr. Price introduced

A resolution to amend Section 3, Article III. of the Constitution.

Referred to the Legislative Committee.

Mr. Price introduced

A resolution to amend Section 1, Article XIV.

Referred to the Committee on State Institutions.

Mr. Clough introduced

A resolution relative to the election of county auditors.

Referred to the Committee on Schedule.

## SPECIAL ORDER.

Mr. Caldwell moved

That the reading of the constitution as ordered yesterday  
be by captions only, and

That the President refer each section to appropriate committees.

Which motion prevailed.

Preamble

Was referred to the Committee on Arrangement and  
Phraseology.

Article I

Was referred to the Committee on Name and Boundaries.

Article II

Was referred to the Committee on Arrangement and  
Phraseology.

Article III

Was referred to the Legislative Committee.

Article IV

Was referred to the Executive and Administrative Committee.

Article V

Was referred to the Committee on Judiciary.

Article VI

Was referred to the Committee on Bill of Rights.

Article VII



Was referred to the Committee on Elections and Right of Suffrage.

Article VIII

Was referred to the Committee on Education and School Lands.

Article IX

Was referred to the Committee on County and Township Organization.

Article X

Was referred to the Committee on Municipal Corporations.

Article XI

Was referred to the Committee on Revenues and Finance.

Article XII

Was referred to to the Committee on Public Accounts and Expenditures.

Article XIII

Was referred to the Committee on State, County and Municipal Indebtedness.

Article XIV

Was referred to the Committee on State Institutions and Public Buildings.

Article XV

Was referred to the Committee on Military Affairs.

Article XVI

Was referred to the Legislative Committee.

Article XVII

Was referred to the Committee on Corporations other than Banking and Municipal.

Article XVIII

Was referred to the Committee on Banking and Currency.

Article XIX

Was referred to the Committee on Congressional and Legislative Apportionment.

Article XX

Was referred to the Committee on Name, Boundary and Seat of Government.

Article XXI

Was divided and referred, as follows:

Section 1

To the Committee on Coat-of-Arms.

Section 2

To the Committee on Compensation of Public Officers.

Section 3

To the Committee on Miscellaneous Subjects.

Section 4

To the Committee on Exemptions.

Section 5

To the Committee on Rights of Married Women.

Article XXII

Was referred to the Committee on Federal Relations.

Article XXIII

Was referred to the Committee on Amendments and Revision.

Mr. Corson moved

That further consideration of reference to committees be postponed till tomorrow and made the special order at 2 o'clock p. m., which motion prevailed.

Mr. Corson moved

That the vote by which the various articles were referred to the various committees be reconsidered, and the consideration of this motion be postponed till to-morrow, and made the special order at 2 o'clock p. m.,

Which motion prevailed.

Mr. Humphrey moved

That a committee of three be appointed to carefully proof-read and compare the copy of the constitution, as found in Long's Legislative hand-boook, with the original copy now in the hands of the President of this convention, and report any and all errors or discrepancies existing therein.

Motion was carried, and

The President appointed Messrs. Humphrey, Zitka and Dickinson as said committee.

The President announced

For Clerk of Committee on Legislative Apportionment the name of Charles H. Anderson.

Also,

For Clerk of the Schedule and Submission Committee the name of C. S. Dietz.

On motion of Mr. Fellows

The convention adjourned.

## EIGHTH DAY.

SIOUX FALLS, Dakota, July 11, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer by the chaplain.

On motion

The reading of the journal was dispensed with.

Mr. Humphrey submitted

The following memorial:

*To the President of the United States:*

Your memorialists, the members of the Constitutional Convention, for the State of South Dakota, now in convention assembled at Sioux Falls, in said state respectfully represented:

That several of the most valuable sections of the lands reserved for the use of the state for school purposes, which lie in agricultural districts, and some of which are contiguous to considerable towns and cities are sought to be improperly appropriated under pretense or claim that they are mineral or coal lands, and therefore subject to appropriation and entry under the mineral and coal land laws of the United States. Successful efforts in this behalf will cause great loss to the school fund of the state.

Proceedings by the claimants to such lands are necessarily *ex parte*, and at present no authority exists in the state, or any of its agents to oppose these claims.

Your memorialists are advised that applications for patents have been, or are about being made to the land department of the United States for such lands based upon their alleged mineral character. We know of no proceeding by any authorized agent of the people of South Dakota by which the applications for patent can be as yet successfully resisted. The people have no standing in the department for such purpose. As soon as the state shall be admitted, and its agents qualified, South Dakota will be in condition to resist their claims successfully, or to protect the rights of the state whatever they may be relating thereto.

Therefore your memorialists respectfully but earnestly pray the President of the United States to direct that all proceedings relating to the entry of or issuance of patent to alleged mineral or coal lands situated within the agricultural districts of South Dakota be postponed and stayed until the State is by proclamation of the President declared admitted into the Union of States and until the Legislature of said State shall have the opportunity to appoint the requisite agents therefor and provide by law for contesting the right to make such entries and obtain from the government patents to such lands.

H. A. HUMPHREY,  
Acting Chairman of Committee on School Lands.

#### REPORTS OF SELECT COMMITTEES.

Mr. Humphrey made report on proof-reading and errata of Sioux Falls Constitution of 1885. The report was referred to the Committee on Phraseology.

#### CONSIDERATION OF REPORTS OF STANDING COMMITTEES.

The memorial to the President of the United States relative to school lands was considered.

Mr. Hole moved

To recommit the memorial to the Committee on School Lands for further consideration and amendment.

The motion was lost by a vote of

Ayes 28; noes 32.

The previous question was moved and roll call demanded.

The vote stood

Ayes—

Atkinson, Berdahl, Boucher, Buechler, Caldwell, Clough, Cook, Cooper, Corson, Culver, Davies, Dickinson, Downing, Eddy, Edgerton of Yankton, Fellows, Gifford, Harris, Hartley, Heninger, Hole, Houlton, Huntley, Humphrey, Jolley, Lee, Matson, McCusick, McGillicuddy, Murphy, O'Brien, Peck, Ramsey, Ringsrud, Scollard, Sherwood, Smith, Spooner, Stoddard, Sterling, Stroupe, Thompson, Van Tassel, Westcott, Wheeler, Whitlock, Williams, Williamson, Wood of Spink, Zitka and Mr. President. (56).

Noes—

Couchman, Diefendorf, Fowles, Goddard, Kellam, McFarland, Price and Wood of Pennington. (8).

So the previous question was ordered, the question being upon



The Adoption of the Memorial.

The vote was Ayes—

Atkinson, Berdahl, Buechler, Clough, Cook, Corson, Culver, Davies, Dickinson, Downing, Eddy, Edgerton of Yankton, Gifford, Houlton, Huntley, Humphrey, Lee, Matson, McGillycuddy, O'Brien Peck, Ringsrud, Sherwood, Smith, Spooner, Stoddard, Sterling, Stroupe, Thompson, Westcott, Wheeler, Willis, Williams, Williamson, Wood of Spink, and Mr. President. (36).

Noes—

Boucher, Caldwell, Cooper, Couchman, Diefendorf, Fellows, Fowles, Goddard, Harris, Hartley, Heninger, Hole, Jolley, Kellam, McKusick, McFarland, Murphy, Price, Ramsey, Scollard, Van Tassel, Whitlock, Wood of Pennington, Zitka. (24.).

So the Memorial

Was Adopted.

#### SPECIAL ORDER.

Mr. Corson asked unanimous consent to withdraw motions of yesterday made special order.

Consent granted.

Article XXIV

Was referred to the Committee on Schedule.

Article XXV

Was referred to the Committee on Amendments to the Constitution.

The Schedule and Ordinance

Was referred to the Committee on Schedule and Ordinance.

Mr. Williams, of Bon Homme, submitted a resolution relative to the powers of the committees of this convention.

*Resolved*, That a committee of five be appointed by the president of this convention, whose duty it shall be to procure from its custodian the Original Sioux Falls Constitution of 1885, and carefully compare the same with the "Omnibus Bill," and report said Original Constitution of 1885 to this convention, together with the changes therein authorized by the "Omnibus Bill," with its recommendations thereon, together with the powers granted to and prohibited this convention by the Omnibus Bill.

Mr. Price moved

To postpone indefinitely.

The vote stood Ayes 40, Noes 18,

So the consideration of the resolution was postponed indefinitely.

Mr. Williamson introduced a resolution for which

Mr. Humphrey offered the following substitute which was accepted:

*Resolved*, That the several committees provided for by the convention be directed to proceed to the discharge of their several duties, and report to this convention only such changes and amendments to the constitution as in their judgment are directed by or are necessary in order to comply with the provisions of the enabling act known as the Omnibus Bill, under the authority of which we are here convened, and by the provisions of which we must be guided and controled.

Mr. Lee moved

To lay the resolution on the table,  
Which motion prevailed.

Mr. Boucher introduced

Resolutions relative to religious freedom, public land, rights of Indians and public schools which

Upon motion of Mr. Corson

Were referred to the Committee on Federal Relations.

Mr. Clough presented

A petition from the Sioux Falls District meetings of M. E. Church, asking for safeguards about elections.

Referred to Committee on Schedule.

On motion of Mr. Lee

The Convention adjourned.

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## NINTH DAY.

SIoux FALLS, DAKOTA, July 12, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer by the chaplain.

Journal read, corrected and approved.

Mr. Sherwood moved

A reconsideration of the Memorial to the President of the United States passed yesterday, in order to amend by correcting error in the last section.

The president decided

That a reconsideration for any purpose brings the whole subject before the convention.



Mr. Humphrey moved  
To lay the motion to reconsider on the table,  
Which motion prevailed.

Mr. McKusick asked leave of absence for the remainder of  
the session.

Such leave granted.

On motion of Mr. Davies  
Convention adjourned.

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### TENTH DAY.

SIoux FALLS, DAKOTA, July 13, 1889.

2 o'clock P. M.

Convention called to order by Mr. Corson of Lawrence.

The clerk read a

Communication from the president of the convention, as  
follows:

SIoux FALLS, DAK., July 12, 1889.

JUDGE CORSON:—

I shall be absent from Saturday till Monday. Will you  
please act in the meantime as president of the Constitutional  
Convention.

A. J. EDGERTON.

Prayer by the chaplain.

Journal read and approved.

Mr. Craig presented a  
Design for the State Seal,  
Which was referred to Committee on Seal.

On motion of Mr. Young  
The Convention adjourned.

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### TWELFTH DAY.

SIoux FALLS, Dakota, July 15, 1889.

2 o'clock P. M.

Convention called to order by Mr. Corson of Lawrence.

Moved by Mr. Dickinson  
That the roll be called.

On motion of Mr. Humphrey

The above motion was laid on the table.

The journal was read and approved.

Resolution offered by Mr. Humphrey

As follows:

*Resolved*, That it is the sense of this convention that standing committees should report with as much promptness and dispatch as the proper discharge of their duties will permit.

The resolution was adopted.

On motion of Mr. Humphrey

The convention adjourned.

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### THIRTEENTH DAY.

SIoux FALLS, Dakota, July 16, 1889.

2 o'clock P. M.

Convention called to order by the president.

Prayer by the chaplain.

Journal read and approved.

The president appointed

Mr. C. R. Westcott in place of Mr. McKusick on the Congressional and Legislative Apportionment Committee, Mr. McKusick having been excused from further attending this Convention on account of other public duties requiring his attention.

Mr. Willis reported

The following resolution:

*Resolved*, That the Judiciary Committee, be, and are, hereby requested to examine and report to the convention whether or not in their judgment any portion of the \$20,000 appropriation may be used to defray the expenses of the May or October elections.

Resolution adopted.

### REPORTS OF STANDING COMMITTEES.

Upon motion of Mr. Westcott

The clerk called the roll of committees.

The Committee on Executive and Administrative

Reported as follows:

*To the President of the Constitutional Convention of South Dakota:*

We, the undersigned, the duly appointed Executive and Administrative Committee of this Convention, do hereby respectfully report, that we have carefully examined Article IV of the constitution of the proposed state of South Dakota, approved by the voters thereof May 14, 1889, and find that no change is necessary or proper in said Article IV, in order to comply with the provisions of the Enabling Act, passed by the congress of the United States.

Sioux Falls, July, 1889.

C. R. WESTCOTT,  
R. C. ANDERSON.  
J. DOWNING.  
W. G. DICKINSON.  
W. H. MURPHY.

Upon motion of Mr. Sterling

The report was made a special order for to-morrow.

The Committee on Amendments and Revision of the Constitution submitted the following report:

SIoux FALLS, Dakota, July 16, 1889.

MR. PRESIDENT:

Your Committee on Amendments and Revision of the Constitution to whom was referred Article XXIII of the Constitution, beg leave to report that we have examined said article and find no change necessary in order to make same conform to the Enabling Act, and we therefore recommend that the same be submitted as originally drawn.

L. T. BOUCHER.  
J. DOWNING.  
WM. COOK.  
WM. STODDARD.  
C. J. B. HARRIS.

Mr. Boucher moved

That the report be adopted.

Upon motion of Mr. Atkinson

The report was made the special order for to-morrow.

Upon motion of Mr. VanTassel

The convention adjourned.

## FOURTEENTH DAY.

SIOUX FALLS, DAKOTA, July 17, 1889.

2 o'clock p. m.

Convention called to order by the President.

Prayer by the Rev. Clough.

Journal read and approved.

## COMMUNICATIONS AND PRESENTATIONS OF PETITIONS.

A communication from E. Chadwick and others relating to names of new states was received, and referred to the Committee on Name, Boundaries and Seat of Government.

A communication from George A. Shufeldt, regarding prohibition was received, and referred to the Committee on Schedule.

An invitation from Mr. Kanouse to visit the State penitentiary was received and read.

## REPORTS OF STANDING COMMITTEES.

The Judiciary Committee submitted the following report:

MR. PRESIDENT:

Your Committee on Judiciary, to whom was referred the resolution requesting said Committee to examine and report to the convention whether or not, in their judgment, any portion of the \$20,000 appropriation may be used to defray the expenses of the May or October elections, beg leave to report: That it is the judgment of this Committee that no part of said appropriation can be used for the purpose of defraying the expenses of such elections.

THOMAS STERLING,  
H. A. HUMPHREY,  
CHAUNCEY L. WOOD,  
W. T. WILLIAMS,  
C. G. SHERWOOD,  
S. A. RAMSEY,  
C. J. B. HARRIS,  
GEO. C. COOPER,  
H. F. FELLOWS,  
H. W. EDDY,  
S. B. VANBUSKIRK,  
Of the Judiciary Committee.



The Committee on The Rights of Married Women  
Submitted their report as follows:

SIoux FALLS, Dak., July —, '89.

MR. PRESIDENT:

Your Committee on "Rights of Married Women," to whom was referred Section (5) Five of Article (21) Twenty-one, entitled "Rights of Married Women," have considered the same and have compared said section with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Section (5) Five of Article (21) Twenty-one of the Constitution, and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

RIGHTS OF MARRIED WOMEN.

SEC. 5. The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

J. V. WILLIS,  
Chairman of Com.  
S. A. WHEELER.  
T. F. DIEFENDORF.  
T. W. THOMPSON.  
J. G. DAVIES.  
DAVID HALL.

Consideration of reports of standing committees:

Mr. Spooner moved

That the report of the Committee on the Rights of Married Women be adopted.

Mr. Sherwood moved that the report be made a special order for tomorrow, which was adopted.

Mr. Sherwood submitted a resolution, as follows:

WHEREAS, It appears that several members of the Constitutional Convention which convened in the city of Sioux Falls on the 8th day of September, A. D., 1885, did not, through error or accident, sign the constitution adopted on November 3, 1885; and,

WHEREAS, Some of the members of said convention who have been heretofore prevented from signing said constitution are now desirous of signing the same.

*Resolved*, That the president of this convention be authorized



to permit any duly elected and qualified member of said constitutional convention of 1885, who has not heretofore signed said constitution to attach his signature to the same.

Referred to the Judiciary Committee.

SPECIAL ORDER.

Mr. Sherwood was called to the chair.

On motion of Mr. Dickinson

The reports made the special order for today were referred back to the appropriate committees for amendment.

Mr. Young submitted

The following resolution which was referred to the Committee on Judiciary.

WHEREAS, The Fiftieth Congress by the Enabling Act for South Dakota, North Dakota, Montana and Washington makes several new grants of lands, moneys and buildings to South Dakota upon its admission into the Union to be used exclusively for specific purposes; and

WHEREAS, It is a mooted question with some members of the convention as to whether it is obligatory on this convention and fitting for it to acknowledge and accept said grants by a resolution of the convention.

Therefore be it

*Resolved*, That the Committee on the Judiciary be requested to report on the necessity of such a resolution.

On motion of Mr. Sterling

The Convention adjourned.

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FIFTEENTH DAY.

SIoux FALLS, Dak., July 18, 1889.

2 o'clock P. M.

The convention was called to order by the president.

Prayer was offered by the Rev. Huntley.

The Journal was read and approved.

REPORTS OF STANDING COMMITTEES.

The following reports from standing committees were submitted:

SIoux FALLS, South Dakota, July 18, 1889.

MR. PRESIDENT:

Your Committee on Compensation of Public Officers, to whom was referred Section 2, of Article XXI, have considered the same and have compared said Section 2, of Article XXI, with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Section 2, of Article XXI of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes therein authorized by the Omnibus Bill.

SECTION 2. COMPENSATION OF PUBLIC OFFICERS.—The Governor shall receive an annual salary of two thousand five hundred dollars; the Judges of the Supreme Court shall each receive an annual salary of two thousand five hundred dollars; the Judges of the Circuit Courts shall each receive an annual salary of two thousand dollars; provided that the Legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the Governor and each of the Judges of the Supreme Court to three thousand dollars, and the annual salary of each of the Circuit Judges to two thousand five hundred dollars.

The Secretary of State, State Treasurer and State Auditor shall each receive an annual salary of one thousand eight hundred dollars; the Commissioner of School and Public Lands shall each receive an annual salary of one thousand eight hundred dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand eight hundred dollars; the Attorney General shall receive an annual salary of one thousand dollars; the compensation of Lieutenant Governor shall be double the compensation of a State Senator.

They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the Legislature to increase the salaries of the officers named in this article except as herein provided.

Respectfully submitted,

H. M. WILLIAMSON, Chairman,

I. R. SPOONER,

J. A. FOWLES,

CHAUNCEY L. WOOD.

SIoux FALLS, South Dakota, July 18, 1889.

MR. PRESIDENT:

Your Committee on "Public Accounts and Expenditures," to whom was referred Article 12, entitled "Public Accounts and

Expenditures," have considered the same and have compared said Article 12 with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article 12 of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

## ARTICLE XII.

### PUBLIC ACCOUNTS AND EXPENDITURES.

SECTION 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

SEC. 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the State, the current expenses of State institutions, interest on public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the Legislature.

SEC. 3. The Legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the State, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; provided, however, that the legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

SEC. 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statement shall be submitted to the legislature at the beginning of each regular session by the Governor with his message.

A. O. RINGSRUD,  
J. V. WILLIS,  
M. R. HENINGER,  
J. G. DAVIES,  
H. M. WILLIAMSON,  
JOHN SCOLLARD,  
W. T. WILLIAMS.

SIOUX FALLS, DAK., July, 1889.

MR. PRESIDENT:

Your Committee on Amendments and Revisions of the Constitution, to whom was referred Article 23, entitled, 'Amendments and Revisions of the Constitution,' have considered the same and have compared said article with the Sioux Falls Constitution and the act of Congress known as the "Omnibus Bill" and have instructed me to report the following as Article XXIII of the Constitution, and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

## ARTICLE XXIII.

## AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either house of the Legislature and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their Journals, with the yeas and nays taken thereon, and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this Constitution, provided, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the Legislature may provide; and provided further, that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a convention to revise this Constitution they shall recommend to the electors to vote at the next election for members of the Legislature, for or against a Convention; and if a majority of all the electors voting at said election shall have voted for a Convention, the legislature shall, at their next session, provide by law for calling the same. The Convention shall consist of as many members as the house of representatives and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.



SIoux FALLS, SOUTH DAKOTA, July 18, 1889.

MR. PRESIDENT:

Your Committee on Corporations Other than Banking and Municipal," to whom was referred Article XVII, entitled "Corporations," have considered the same and have compared said Article with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill" and have instructed me to report the following as Article XVII of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes therein authorized by the "Omnibus Bill:"

## ARTICLE XVII.

### CORPORATIONS.

SECTION 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State; but the Legislature shall provide by general laws for the organization of all corporations hereafter to be created.

SEC. 2. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

SEC. 3. The Legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the State.

SEC. 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates as he may prefer.



SEC. 6. No foreign corporation shall do any business in this State without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

SEC. 7. No corporation shall engage in any business other than that expressly authorized in its charter nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

SEC. 8. No corporation shall issue stocks or bonds except for money, labor done or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

SEC. 9. The Legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revocable at the taking effect of this constitution, or any that may be created, whenever in their opinion it may be injurious to the cities of this State; in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

SEC. 10. No law shall be passed by the Legislature granting the right to construct and operate a street railroad within any city, town or incorporated village without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

SEC. 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this State, and to connect the same with other lines; and the Legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph.

SEC. 12. Every railroad corporation organized or doing business in this State under the laws or authority thereof shall have and maintain a public office or place in this State for the transaction of its business, where transfers of its stock shall be made, and in which shall be kept for public inspection books in

which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 13. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

SEC. 14. No railroad corporation shall consolidate its stock, property or franchise with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 15. Railways heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to legislative control; and the Legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this state.

SEC. 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 17. The Legislature shall pass laws to correct abuses

and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

SEC. 18.. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals, made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party, be determined by a jury as in other civil cases.

SEC. 19. The term "corporations," as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

W. G. DICKINSON,  
Chairman of the Committee.

SIoux FALLS, Dakota, July 17, 1889.

MR. PRESIDENT:

Your Committee on Bill of Rights, to whom was referred Article VI, entitled "Bill of Rights," have considered the same and have compared said Article VI with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article VI of the Constitution and the changes thereto authorized by the Omnibus Bill, to-wit: In Section Twenty-six where the words "State of Dakota" appear it shall be so altered as to read "State of South Dakota.

COMMITTEE OF BILL OF RIGHTS.

I. R. SPOONER,  
Chairman.

## ARTICLE VI.

### BILL OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these



rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. No person shall be deprived of life, liberty or property without due process of law.

SEC. 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State. No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the State shall be given or appropriated for the benefit of any sectarian of religious society or institution.

SEC. 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

SEC. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published, with good motives or justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the court.

SEC. 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but the Legislature may provide for a jury of less than twelve in any court not a court of record, and for the decision of civil cases by three-fourths of the jury in any court.

SEC. 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion, the public safety may require it.

SEC. 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

SEC. 10. No person shall be held for a criminal offense unless on the presentment or indictment of a grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger: provided, that the grand jury may be modified or abolished by law.

SEC. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

SEC. 12. No *ex post facto* law, or law impairing the obligation of contracts or making any irrevocable grant or privilege, franchise or immunity, shall be passed.

SEC. 13. Private property shall not be taken for public use or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained, and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

SEC. 14. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

SEC. 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

SEC. 16. The militia shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war, except in the manner prescribed by law.

SEC. 17. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform.

SEC. 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which



upon the same terms shall not equally belong to all citizens or corporations.

SEC. 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the State, under regulations to be prescribed by the Legislature.

SEC. 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

SEC. 21. No power of suspending law shall be exercised unless by the Legislature or its authority.

SEC. 22. No person shall be attainted of treason or felony by the Legislature.

SEC. 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

SEC. 24. The rights of the citizens to bear arms in defense of themselves and the State shall not be denied.

SEC. 25. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or confession in open court.

SEC. 26. All political power is inherent in the people and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the State of South Dakota is an inseparable part of the American union and the Constitution of the United States is the supreme law of the land.

SEC. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

MR. PRESIDENT:

Your committee on Municipal Corporations to whom was referred Article X, entitled "Municipal Corporations," have considered the same and have compared said Article X with the Sioux Falls Constitution and the act of Congress known as the "Omnibus Bill" and have instructed me to report the following as

article X of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the Omnibus Bill.

DAVID HALL.  
H. L. FELLOWS.  
J. F. WOOD.  
GEO. C. COOPER.  
I. ATKINSON.

## ARTICLE X.

### MUNICIPAL CORPORATIONS.

SECTION 1. The Legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the powers of each class shall be defined by the general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than all corporations of the same class. The Legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

SEC. 2. Except as otherwise provided in this Constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose, ever be diverted to any other.

SEC. 3. No street passenger railway or telegraph or telephone line shall be constructed within the limits of any village, town or city without the consent of its local authorities.

On motion of Mr. Willis,

The above reports were made the special order for to-morrow.

### SPECIAL ORDER.

The report of the Committee on Rights of Married Women, made the special order for to-day, was read.

Mr. Sterling moved

The adoption of the report as read.

Motion carried.

Mr. Humphrey offered the following motion:

Moved,

That the reports of Standing Committees be required to

clearly and plainly show what, if any, changes or amendments to the Constitution are proposed.

On motion of Mr. Hole it was

Referred to the Committee on Rules.

On motion of Mr. Davies

The Convention adjourned.

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## SIXTEENTH DAY.

SIoux FALLS, DAK., July 19, 1889.

2 o'clock P. M.

Convention called to order by the President.

Prayer by the Rev. Matson.

On motion of Mr. Fellows reading of the Journal was dispensed with.

### REPORTS OF STANDING COMMITTEES.

The following reports were submitted:

SIoux FALLS, DAK., July 19, 1889.

MR. PRESIDENT:

Your committee on Legislative to whom was referred Article XVI, entitled "Impeachment and Removal from Office" have considered the same and have compared said Article XVI with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article XVI of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the change thereto authorized by the "Omnibus Bill."

## ARTICLE XVI.

SECTION 1. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

SEC. 2. All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial the presiding judge of the Supreme Court shall preside.

SEC. 3. The Governor and other State and Judicial officers except county judges, justices of the peace and police magistrates, shall be liable to impeachment for drunkenness, crimes, corrupt conduct or malfeasance or misdemeanor in office, but

judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the State. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 4. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office or for drunkenness or gross incompetency in such manner as may be provided by law.

SEC. 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 6. On trial of an impeachment against the Governor the Lieutenant Governor shall not act as a member of the Court.

SEC. 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

SEC. 8. No person shall be liable to impeachment twice for the same offense.

A. B. McFARLAND, Chairman.

S. A. RAMSEY.

WM. COOK,

R. F. LYON.

#### REPORT OF COMMITTEE ON ELECTION AND RIGHT OF SUFFRAGE.

MR. PRESIDENT:

The committee to whom was referred Article VII, entitled "Election and Right of Suffrage," respectfully report, that we find the same to be in conformity with the Enabling Act, and recommend that no alterations be made.

### ARTICLE VII.

#### ELECTIONS AND RIGHT OF SUFFRAGE.

SECTION 1. Every male person resident of this State who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this State six months, in the County thirty days and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election:

First: Citizens of the United States.

Second: Persons of foreign birth who shall have declared



their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

SEC. 2. The Legislature shall at its first session after the admission of the State into the Union, submit to a vote of the electors of the State the following question to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the Constitution relating to election and the right of suffrage." If a majority of the votes cast upon that question are in favor of striking out said word "male," it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this State.

SEC. 3. All votes shall be by ballot, but the Legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

SEC. 4. All general elections shall be biennial.

SEC. 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections, except in time of war or public danger.

SEC. 6. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

SEC. 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

SEC. 8. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 9. Any woman having the qualifications enumerated in section 1 of this article, as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote at any election held solely for purposes, and may hold any office in this State, except as otherwise provided in this Constitution.

WM. STODDARD.

WM. COOK.

C. R. WESTCOTT.

JOHN SCOLLARD.

J. F. WHITLOCK.

HARRY T. CRAIG.



MR. PRESIDENT:

Your Committee on Federal Relations, to which the proposition or resolution, presented by Mr. Boucher, relating to compact with the United States, was referred, would respectfully report that we have had the same under consideration and have decided to report herewith "An Ordinance irrevocable without the consent of the United States and the People of this State, relating to Religious Toleration, Public Lands, Taxation of Lands, Debts of the Territory of Dakota and Public Schools," and would recommend the passage of said Ordinance.

Your committee would further report that we have had under consideration Article XXII of the Sioux Falls Constitution and find that the same is defective because it does not contain all the provisions required by the Omnibus Bill, and we would therefore recommend that the said Article XXII be stricken out of the Constitution.

We would further report that the said Ordinance contains all the provisions of said Article XXII and such additional provisions, not contained in said Article XXII as are required by the Omnibus Bill, so called, or Enabling Act.

An Ordinance, irrevocable without the consent of the United States and the People of this State, relating to Religious Toleration, Public Lands, Taxation of Lands, Debts of the Territory of Dakota and Public Schools.

*Be it Ordained by the Constitutional Convention of the State of South Dakota:*

First: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second: That the people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian Tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and the said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; that no taxes shall be imposed by this State on lands or property therein belonging to,

or which may hereafter be purchased by the United States or reserved for its use. But nothing herein shall preclude this State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation but that all such lands shall be exempt from taxation by this State so long and to such extent as such act of Congress may prescribe.

Third: That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota which the joint commission appointed by the Constitutional Conventions of North Dakota and South Dakota have adjusted and agreed upon as the just proportion of said debt and liabilities to be assumed and paid by South Dakota. The agreement reached respecting said debts and liabilities is incorporated in the Constitution of this State and this State obligates itself to pay its proportion of such debts and liabilities, as therein specified, the same as if they had been created by this State.

Fourth: That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this State and free from sectarian control.

Fifth. That this Ordinance shall be and remain irrevocable without the consent of the United States and the people of this State.

W. H. MURPHY,  
C. A. HOULTON,  
C. G. SHERWOOD,  
C. J. B. HARRIS.

MR. PRESIDENT:

Your Committee on Federal Relations to which was referred the resolution relating to a memorial to Congress for the appointment of a commission for the purpose of making a geological and hydrographic survey of the State would respectfully report that we have had the same under consideration and have decided to report the accompanying memorial and recommend its passage.

A MEMORIAL to the Congress of the United States requesting the appointment of a Commission for the purpose of making a geological and hydrographic survey of the State.

*To the Congress of the United States:*

The Constitutional Convention of the State of South Dakota duly assembled would respectfully represent to your honorable body that it has been demonstrated that within the limits of South Dakota there exists what is known as an artesian basin or system, but that its extent has not been fully determined. And that a desire is being generally expressed by the people of South Dakota that the matter be investigated and the extent of the system fully determined and its availability for the purposes of agriculture and manufactures be determined.

Now, therefore, the said Convention would respectfully memorialize your honorable body and request you to appoint at the earliest possible time a Commission for the purpose of making and with power to make a thorough and complete geological and hydrographic survey of the State, including the mineralogical formation of the Black Hills and the artesian basin of South Dakota, and that you make the necessary appropriations therefor.

W. H. MURPHY.

C. A. HOULTON.

C. G. SHERWOOD.

C. J. B. HARRIS.

MR. PRESIDENT:

Your Committee on Education and School Lands to whom was referred Article (8) eight of the Constitution, entitled "Education and School lands," having had the same under careful consideration, beg leave to report the following changes and amendments necessary to comply with the provisions of the Omnibus Enabling Act, to wit:

First. To insert the words "and other," in the title.

Second. To strike out in the first sentence of Section 5 the words, viz: "unless, after the year A. D. nineteen hundred, two successive Legislatures concur in a law otherwise directing."

Third. To insert the word "South" before Dakota in Section 11.

Fourth. To insert the words, "and all lands donated for other than educational and charitable purposes," after the word "section" in the second line of Section 8, and we herewith report Article VIII, with the changes and amendments aforesaid incorporated therein, viz:

### ARTICLE VIII.

#### EDUCATION AND SCHOOL AND OTHER LANDS.

SECTION I. The stability of a republican form of govern-



ment depending on the morality and intelligence of the people, it shall be the duty of the Legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.

SEC. 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the State; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the State by escheat; the proceeds of all gifts or donations to the State for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the State. It shall be deemed a trust fund held by the State. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the State shall make good all losses thereof which may in any manner occur. ,

SEC. 3. The interest and income of this fund, together with the net proceeds of all fines for violation of State laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the State, and shall be for this purpose apportioned among and between all the several public school corporations of the State in proportion to the number of children in each, of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the State.

SEC. 4. After one year from the assembling of the first Legislature, the lands granted to the State by the United States for the use of the public schools may be sold upon the following conditions and no other. Not more than one-third of all such land shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the State, and the Legislature shall, subject to the provisions of this article, provide for the sale of the same.

The Commissioner of School and Public Lands, the State Auditor and the County Superintendent of Schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale, at their actual value.

under the terms of sale. They shall take care first to select and designate for sale the most valuable lands; and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

SEC. 5. No lands shall be sold for less than the appraised value and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years and one-fourth in fifteen years, with interest thereon at the rate of not less than six per centum per annum, payable annually in advance; but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be reappraised by the board of appraisal as hereinbefore provided before they are sold.

SEC. 6. All sales shall be conducted through the office of the Commissioner of School and Public Lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right of title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the Governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

SEC. 7. All lands, money or other property donated, granted or received from the United States or any other source for a university, agricultural college, normal schools, or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such land as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the State, and the State shall make good all losses therefrom that shall in any manner occur.



SEC. 8. All lands mentioned in the preceding section, and all lands donated for other than educational and charitable purposes, shall be appraised and sold in the same manner and by the same officers and boards under the same limitations, and subject to all the conditions as to price, sale and approval provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

SEC. 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes and at public auction after notice as hereinbefore provided in case of sale, and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the Governor.

SEC. 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

SEC. 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this State as hereinafter provided, or in bonds of school corporations within the State, or in bonds of the United States, or of the State of South Dakota. The Legislature shall provide by law the method of determining the amounts of said funds which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, shall for such purpose be divided among the organized counties of the State in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss to any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively, but no farm loan shall exceed five hundred dollars to any one person, nor shall it

exceed one-half the valuation of the lands as assessed for taxation, and the rate of interest shall not be less than six per centum per annum, and shall be such other and higher rate as the Legislature may provide, and shall be payable semi-annually on the first day of January and July; provided, that wherever there are moneys of said funds in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the State Treasurer to be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi annually, on the first day of January and July, render an account of the condition of the funds intrusted to it, to the Auditor of the State, and at the same time pay to or account to the State Treasurer for the interest due on all funds intrusted to it.

The Legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the State treasury of interest at the rate provided by law for said loans, except only said one per centum; and in no case shall the interest so to be paid be less than six per centum per annum.

The Legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

SEC. 12. The Governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

SEC. 13. All losses to the permanent school or other educational funds of this State which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State in favor of the fund sustaining the loss upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII, Section 2.

SEC. 14. The Legislature shall provide by law for the protection of the school lands from trespass, or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

SEC. 15. The Legislature shall make such provisions by general taxation, and by authorizing the school corporations to levy such additional taxes, as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the State.

SEC. 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the State, or any county or municipality within the State, nor shall the State or any county or municipality within the State accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the State.

SEC. 17. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this State, under such penalties as shall be provided by law.

And we respectfully recommend the adoption of the amendments and the submission of the Article as amended.

H. A. HUMPHREY,  
Acting Chairman of Com.

C. G. COATS.

F. G. YOUNG.

J. DOWNING.

S. S. PECK.

W. H. MATSON.

GEO. H. CULVER.

S. F. HUNTLEY.

SIoux FALLS, South Dakota, July 18, 1889.

MR. PRESIDENT:

Your Committee on "State Institutions and Public Buildings," to whom was referred Article XIV, entitled "State Institutions" have considered the same and compared said Article XIV with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill" and have instructed me to report the following as Article XIV of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill." The insertion of the word "South" before Dakota in Section 1 comprises all the changes made.

## ARTICLE XIV.

### STATE INSTITUTIONS.

SECTION 1. The charitable and penal institutions of the



State of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

SEC. 2. The State institutions provided for in the preceding section shall be under the control of a State Board of Charities and Corrections, under such rules and restrictions as the Legislature shall provide; such board to consist of not to exceed five members, to be appointed by the Governor and confirmed by the Senate, and whose compensation shall be fixed by law.

SEC. 3. The State University, the Agricultural College, the normal schools and other educational institutions that may be sustained either wholly or in part by the State shall be under the control of a board of nine members, appointed by the Governor and confirmed by the Senate, to be designated the Regents of Education. They shall hold their office for six years, three retiring every second year.

The Regents in connection with the faculty of each institution shall fix the course of study in the same.

The compensation of the Regents shall be fixed by the Legislature.

SEC. 4. The Regents shall appoint a board of five members for each institution under their control, to be designated the Board of Trustees. They shall hold office for five years, one member retiring annually. The trustees of each institution shall appoint the faculty of the same, and shall provide for the current management of the institution, but all appointments and removals must have the approval of the Regents to be valid. The trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer. Each board of trustees at its first meeting shall decide by lot the order in which its members shall retire from office.

SEC. 5. The Legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the State.

F. G. YOUNG, Chairman.  
WM. VAN EPS,  
C. G. HARTLEY,  
J. DOWNING,  
CHAUNCEY L. WOOD, .  
C. BUECHLER,  
R. A. SMITH,  
J. F. WOOD.

SIoux FALLS, Dakota, July 18, 1889.

MR. PRESIDENT:

Your Committee on Exemptions to whom was referred Section 4, Article XXI, entitled, "Exemptions," have considered the same, and have compared said Section 4, in Article XXI with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill" and have instructed me to report the following as Section 4, Article XXI, of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill," without any amendments.

SEC. 4. EXEMPTIONS.—The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale a homestead, the value of which shall be limited and defined by law to all heads of families, and a reasonable amount of personal property, the kind and value of which to be fixed by general laws.

C. BUECHLER,  
Chairman.

J. A. FOWLES,  
S. S. PECK,  
GEO. H. CULVER,  
GEO. C. COOPER,  
S. D. JEFFRIES,  
M. R. HENINGER,  
C. G. COATS.

SIoux FALLS, Dakota, July 19, 1889.

MR. PRESIDENT:

Your Committee on Banking and Currency to whom was referred Article XVIII, entitled "Banking and Currency," have considered the same and have compared said Article XVIII with the Sioux Falls Constitution and the act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article XVIII of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

## ARTICLE XVIII.

### BANKING AND CURRENCY.

SECTION I. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this State of all bill or paper credit designed to circulate as money, and require security to the full amount thereof, to be de-



posited with the State Treasurer, in the approved securities of the State or of the United States, to be rated at ten per cent. below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

SEC. 2. Every bank, banking company or corporation shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is fully closed; but the Legislature may provide by general law for the reorganization of such banks.

SEC. 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares of stock and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

J. G. DAVIS, Chairman,  
S. A. RAMSEY,  
S. B. MCFARLAND,  
S. F. HUNTLEY,  
C. J. BUECHLER,  
C. S. GIFFORD.

SIoux FALLS, DAKOTA, July 19, 1889.

MR. PRESIDENT:

Your committee on Seal and Coat of Arms to whom was referred Section 1 of Article XXI of the Constitution, entitled "Seal and Coat of Arms," having had the same under careful consideration, beg leave to report the following changes necessary to comply with the provisions of the Omnibus Enabling Act, to-wit: To insert the word "South" before the word Dakota in the two instances where the words "State of Dakota" appear; and we herewith report Section 1, Article XXI, with the change aforesaid incorporated therein, viz:

## ARTICLE XXI.

### MISCELLANEOUS.

SECTION 1. SEAL AND COAT OF ARMS.—The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field

of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend, "Under God the People Rule," which shall be the motto of the State of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words "State of South Dakota." In the lower part the words "Great Seal," and the date in Arabic numerals of the year in which the State be admitted to the Union.

And respectfully recommend the adoption of the change and the submission of the Article as amended.

C. A. HOULTON.  
H. A. HUMPHREY,  
JOHN SCOLLARD,  
J. F. WOOD.

SIoux FALLS, South Dak., July 18, 1889.

MR. PRESIDENT:

Your Committee on Miscellaneous Subjects to whom was referred Article XXI, Section 3, beg leave to report that in our opinion no change is necessary in said section, which is hereto attached.

SEC. 3. OATH OF OFFICE.—Every person elected or appointed to any office in this State, except such inferior offices as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully to discharge the duties of his office.

H. W. EDDY, Chairman.  
W. L. WILLIAMS.  
WM. COOK.  
WM. STODDARD.  
SANFORD PARKER.  
C. G. HARTLEY.

SIoux FALLS, Dakota, July 18, 1889.

MR. PRESIDENT:

Your Committee on Article IV of the Sioux Falls Constitution, "Executive and Administrative," have considered the same and have compared said Article IV with the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article IV of the Constitution, and that the same is in accordance with the Sioux Falls Constitution and the Omnibus Bill.

C. R. WESTCOTT, Chairman of Com.

## ARTICLE IV.

## EXECUTIVE DEPARTMENT.

SECTION 1. The executive power shall be vested in a Governor who shall hold his office two years; a Lieutenant Governor who shall be elected at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the State or Territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 3. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and place of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

SEC. 4. The Governor shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the Legislature on extraordinary occasions. He shall at the commencement of each session communicate to the Legislature by message, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature and shall take care that the laws be faithfully executed.

SEC. 5. The Governor shall have the power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment; provided, that in all cases where the sentence of the court is capital punishment, imprisonment for life or for a longer term than two years, or a fine exceeding \$200, no pardon shall be granted, sentence commuted or fine remitted except upon the recommendation in writing of a board of pardons, consisting of

the presiding judge, Secretary of State and Attorney General, after full hearing in open session, and such recommendation, with the reasons therefor, shall be filed in the office of the Secretary of State; but the Legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the Legislature at each regular session, each case of remission of fine, reprieve, commutation or pardon granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting same.

SEC. 6. In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

SEC. 7. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 8. When any office shall from any cause become vacant and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have power to fill such vacancy by appointment.

SEC. 9. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve he shall sign it, but if not, he shall return it with his objection to the House in which it originated, which shall enter the objection at large upon the Journal and Proceedings to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to the other House, by which it shall



likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both Houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the Journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sunday excepted) after it shall have been presented by him, the same shall be a law, unless the Legislature shall by its adjournment prevent its return; in which case it shall be filed, with his objection, in the office of the Secretary of State, within ten days after such adjournment or become a law.

SEC. 10. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items and part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in manner following: If the Legislature be in session he shall transmit to the House in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 11. Any Governor of this State who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives, or offers, or promises his official influence in consideration that any member of the Legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created; in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislature, or who threatens any member that he, the said Governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said members, shall be punished in the manner now, or that may hereafter be provided by law, and upon conviction thereon shall forfeit all right to hold or exercise any office of trust or honor in this State.

SEC. 12. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislature, a Secretary of State, Auditor, Treasurer, Superin-



tendent of Public Instruction, Commissioner of School and Public Lands, and Attorney General, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of Treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

SEC. 13. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands and Attorney General shall be as prescribed by law.

C. R. WESTCOTT,

Chairman of Executive and Administrative Committee.

*To the President of the Constitutional Convention, South Dakota:*

We, the undersigned Committee on Manufactures and Agriculture, do hereby respectfully report that on careful examination we find that no changes are required in those parts of the Constitution, submitted to our inspection, in order to comply with the provisions of the Enabling Act passed by the Congress of the United States.

SIoux FALLS, July 19, 1889.

T. W. P. LEE.

J. F. WHITLOCK.

R. A. SMITH.

T. F. DIEFENDORF.

C. S. GIFFORD.

E. G. EDGERTON.

C. R. WESCOTT.

R. F. LYONS.

SIoux FALLS, Dakota, July 18, 1889.

MR. PRESIDENT:

Your Committee on Military affairs to whom was referred Article No. XV, entitled "Militia," have considered the same and have compared said Article No. XV with the Sioux Falls Constitution and the Act of Congress, known as the Omnibus Bill, and we report the following as Article XV of the Constitution and that the same is in accordance with the Sioux Falls Constitution, and the changes thereto authorized by the Omnibus Bill, viz.: the name South Dakota in sections one and six in lieu of Dakota.

SECTION 1. The militia of the State of South Dakota, shall consist of all able bodied male persons residing in the State, between the ages of 18 and 45 years, except such persons as now are, or hereafter may be exempted by the laws of the United States or of this State.

SEC. 2. The Legislature shall provide by the law for the enrollment, uniforms, equipment and discipline of the militia and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the State, the preservation of order and the efficiency and good of the service.

SEC. 3. The Legislature, in providing for the organization of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 4. All militia officers shall be commissioned by the Governor, and may hold their commissions for such period of time as the Legislature may provide, subject to removal by the Governor for cause, to be first ascertained by a Court Martial, pursuant to law.

SEC. 5. The militia shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

SEC. 6. All military records, banners and relics of the State, except when in lawful use, shall be preserved in the office of the Adjutant General as an enduring memorial of the patriotism and valor of South Dakota, and it shall be the duty of the Legislature to provide by law for the safe-keeping of the same.

SEC. 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

Respectfully submitted,

E. E. CLOUGH,  
W. H. MATSON,  
T. W. P. LEE,  
W. H. GODDARD.

Further:

There was submitted to your committee a petition from Jacob Schmidt and other Russian citizens asking that Section 7 of Article XV be so amended as to at all times exempt persons having such religious scruples from doing military duty; the committee finds that it is not possible for this Convention to so amend said Section 7, Article XV.

E. E. CLOUGH,  
Chairman Committee.

Mr. Davies moved

That all reports of Standing Committees submitted to-day be made special order for to-morrow.

Mr. Atkinson moved

To amend by making said reports special order for Tuesday, July 23d.

Amendment carried.

SPECIAL ORDER.

The President called Mr. VanBuskirk to the chair.

On motion of Mr. Sterling

The report of the Committee on Compensation of Public Officers as submitted yesterday was adopted.

On motion of Mr. Davies

The report of the Committee on Public Accounts and Expenditures was adopted.

The report of the Committee on Amendment and Revision of the Constitution was, on motion of Mr. Boucher, amended by inserting the words "of the Legislature" after the words "House of Representatives" in Section 2, Article XXIII.

On motion of Mr. Dickinson the report was adopted as amended.

The report of the Committee on Corporations other than Banking and Municipal was, on motion of Mr. Harris, adopted.

Upon motion of Mr. Sterling

The report of the Committee on Bill of Rights was adopted.

The report of the Committee on Municipal Corporations was, on motion of Mr. Davies, adopted.

The Judiciary Committee submitted the following report which, on motion of Mr. Humphrey, was referred to the Committee on Amendments and Revision of the Constitution with instruction to report on next Tuesday.

MR. PRESIDENT:

Your Committee on Judiciary, to whom was referred the resolution requesting the committee to report as to the necessity of accepting the several new grants of lands, moneys and buildings to South Dakota by a resolution of the Convention, would respectfully report: That without determining the necessity of such resolution, the committee recommend, that a section be incorporated in the Constitution, formally accepting such grants.

THOS. STERLING,  
H. A. HUMPHREY,  
A. J. BERDAHL,  
H. W. EDDY,  
W. T. WILLIAMS,  
S. A. RAMSEY,  
D. CORSON,  
C. J. B. HARRIS,  
S. B. VANBUSKIRK,

Of the Judiciary Committee.

The Judiciary Committee made the following report.

SIoux FALLS, July 19, 1889.

MR. PRESIDENT:

Your Committee on Judiciary to whom was referred the resolution pertaining to the signing of the Constitution by members of the Constitutional Convention of 1885, who by inadvertance or other cause were prevented from signing the same respectfully report:

That upon consideration of such resolution it is the sense of the committee that this Convention has no authority to grant permission to such members to affix their signatures to the Constitution of 1885.

THOMAS STERLING,  
H. A. HUMPHREY,  
A. J. BERDAHL,  
H. W. EDDY,  
W. T. WILLIAMS,  
S. A. RAMSEY,  
D. CORSON,  
C. J. B. HARRIS,  
S. B. VANBUSKIRK,  
Of the Judiciary Committee.

On Motion of Mr. Young  
The report was adopted.

Mr. Sterling moved that the report of the Committee on Education and School Lands be amended so that section 9 of Article V shall read as follows:

SEC. 9. The lands mentioned in this Article, may under such regulations as the Legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company. All rents shall be payable annually in advance, nor shall any lease be valid until it receives the approval of the Governor.

On motion of Mr. Hole it was  
Referred to the Committee on Education and School Lands.

On motion of Mr. Harris  
The Convention adjourned.



## SEVENTEENTH DAY.

SIOUX FALLS, DAK., July 20, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson of Lawrence.

Prayer was offered by Rev. E. E. Clough of Codington.

The Clerk read the following communication from President Edgerton.

SIOUX FALLS, Dakota, July 20, 1889.

JUDGE CORSON:

Will you please preside in the convention during my absence.

A. J. EDGERTON.

On motion of Mr. Young of Lake  
The convention adjourned.

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NINETEENTH DAY.

SIOUX FALLS, Dakota, July 22, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson.

Prayer by the chaplain.

The journal was read and approved.

## REPORTS OF STANDING COMMITTEES.

The Committee on County and Township Organization submitted their report as follows:

SIOUX FALLS, Dakota, July 20, 1889.

MR. PRESIDENT:

Your Committee on County and Township Organization, to whom was referred Article nine (9), entitled "County and Township Organization," have considered the same and have compared said article with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have in-

structed me to report the following as Article nine (9) of the constitution, and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill." That no changes are made except prefixing the word "South" to Dakota:

## ARTICLE IX.

### COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The Legislature shall provide by general law for organizing new counties, locating the county seats thereof and changing county lines; but no new county shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized before taking effect shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter, and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

SEC. 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place receiving a majority of all votes cast at said election shall be the county seat of said county.

SEC. 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

SEC. 4. The Legislature shall provide by general law for organizing the counties into townships, having due regard for Congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with Congressional townships.

SEC. 5. In each organized county at the first general election held after the admission of the State of South Dakota into the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner, and superintendent of schools, whose terms of office respectively shall be two years, and except the clerk of the court, no person shall be eligible for more than four years in succession to any of the above named offices.

SEC. 6. The Legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township, and district officers.

SEC. 7. All county, township and district officers shall be electors in the county, township, or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person as provided in Section 9, Article VII.

J. F. WHITLOCK,

Chairman.

The Committee on Engrossment and Enrollment presented engrossed copy of the Memorial to the President of the United States concerning school lands.

On motion of Mr. Spooner

The report of the Committee on County and Township Organization was made the special order for to-morrow.

Mr. Goddard offered

A resolution instructing the Joint Commission at Bismarck to arbitrate the boundary question.

Read and referred to the Committee on Name, Boundary, and Seat of Government.

On motion of Mr. Spooner,

The vote by which Article XXI was adopted was reconsidered.

On motion of Mr. Clough,

Article XXI was amended by striking out the word "each" where it occurs between the words "public lands shall" and the word "receive" in Section 2 of said Article.

On motion of Mr. Goddard,

The report as amended was adopted.

On motion of Mr. Spooner,

The Convention adjourned.

## TWENTIETH DAY.

SIOUX FALLS, DAKOTA, July 23, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson.

Prayer was offered by Rev. Matson.

Journal read and approved.

Communication from American Sabbath Union presented and referred to a special committee consisting of Messrs. Clough, Huntley, Willis, Wood of Pennington and Ramsey.

## REPORTS OF STANDING COMMITTEES.

Report of Judiciary Committee submitted as follows:

MR. PRESIDENT:

Your Committee on Judiciary to whom was referred Article V of the Constitution entitled "Judicial Department," having had the same under consideration, together with those provisions of the "Omnibus Bill," relating to said department, beg leave to report as follows:

First. That upon the question of the power of the Convention to increase the number of Judicial circuits, the committee, after full discussion and examination conclude that under Section 5 of said "Omnibus Bill," allowing such changes in the Constitution as relate to the re-apportionment of Judicial districts, such increase by this Convention is clearly authorized.

Second. That the Committee have likewise carefully considered the expediency and the necessity of such increase. In the older and more thickly populated counties a large volume of business has been long pending before the courts; and new counties, largely settled since the apportionment by the Convention of 1885, have added to the litigation to be disposed of in all the circuits; and, from all the information before the Committee it is apparent that the six Judicial circuits as provided by the Constitution of 1885 are inadequate in number for the transaction of the business pertaining thereto, and that the creation of county courts with jurisdiction as limited by the Constitution will not afford the required relief.



Third: That in recommending an increase from six to eight judicial circuits the committee believe the interests of justice and economy will be subserved, and that such is the least increase consistent with a proper administration of the law.

Fourth: That in the re-apportionment made by the committee care has been taken that the circuits shall be formed by compact territory and bounded by county lines, and that, having reference to such compactness and the amount of business to be done, your committee believe that the apportionment, as shown by the amendment to Section 16 of Article V, herewith submitted, is a just and equitable apportionment of the State into judicial circuits. That such apportionment amends Section 16 of Article Five, so that the same shall read as follows:

SEC. 16. Until otherwise ordered by law said circuits shall be eight in number and constituted as follows, viz.:

First Circuit: The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit: The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit: The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Wahpeton and Sisseton Reservation, except such portion of said reservation as lies in Marshall county.

Fourth Circuit: The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

Fifth Circuit: The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit: The counties of Hand, Hyde, Hughes, Stanley, Sully, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit: The counties of Pennington, Custer, Fall River, Shannon, Washington, Zeibach, Sterling, Nowlin, Jackson, Washabaugh and Lugenbeel.

Eighth Circuit: The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri River and north of the Big Cheyenne River and the north fork of the Cheyenne River not included in any other judicial circuit.

Fifth: The committee further report amendments, as follows: In the first line of Section 38 of said Article V, insert the word "South" before the word "Dakota," and in the third line of said Section 38 insert the word "South" before the word "Dakota." And we herewith report Article V with the changes and amendments aforesaid incorporated therein which changes and amendments are necessary to comply with the provisions of the Omnibus Enabling Act and are authorized by the same, and the committee respectfully recommend the adoption of said Article as amended.

## ARTICLE V.

### JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers of the State, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, circuit courts, county courts, and justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

### SUPREME COURT.

SEC. 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. The Supreme Court and the judges thereof shall have power to issue writs of habeas corpus. The Supreme Court shall also have power to issue writs of mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be provided by law, provided, however, that no jury trials shall be allowed in said Supreme Court, but, in proper cases, questions of fact may be sent by said court to a circuit court to a trial before a jury.

SEC. 4. At least two terms of the Supreme Court shall be held each year at the seat of government.

SEC. 5. The Supreme Court shall consist of three judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

SEC. 6. The number of said judges and districts may, after five years from the admission of this State under this Constitution, be increased by law to not exceeding five.

SEC. 7. A majority of the judges of the Supreme Court

shall be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a certain day.

SEC. 8. The term of the judges of the Supreme Court, who shall be elected at the first election under this Constitution, shall be four years. At all subsequent elections the term of said judges shall be six years.

SEC. 9. The judges of the Supreme Court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

SEC. 10. No person shall be eligible to the office of judge of the Supreme Court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected, but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

SEC. 11. Until otherwise provided by law, the districts from which the said judges of the Supreme Court shall be elected, shall be constituted as follows:

First District: All that portion of the State lying west of the Missouri river.

Second District: All that portion of the State lying east of the Missouri river and south of the second standard parallel.

Third District: All that portion of the State lying east of the Missouri river and north of the second standard parallel.

SEC. 12. There shall be a clerk and also a reporter of the Supreme Court, who shall be appointed by the judges thereof, and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the Supreme Court not inconsistent with law. The Legislature shall make a provision for the publication and distribution of the decisions of the Supreme Court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copy rights are secured they shall inure wholly to the benefit of the State.

SEC. 13. The Governor shall have authority to require the opinions of the judges of the Supreme Court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.



## CIRCUIT COURTS.

SEC. 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offense, may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 15. The State shall be divided into judicial circuits in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

SEC. 16. Until otherwise ordered by law said circuits shall be eight in number and constituted as follows, viz.:

First Circuit: The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit: The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit: The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Wahpeton and Sisseton Reservation, except such portion of said reservation as lies in Marshall county.

Fourth Circuit: The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

Fifth Circuit: The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit: The counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit: The counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Sterling, Nowlin, Jackson, Washabaugh, Lugenbeel.

Eighth Circuit. The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri river and north of the Big Cheyenne river and the north fork of the Cheyenne river not included in any other judicial circuit:



SEC. 17. The Legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines, but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

SEC. 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the Supreme Court under such regulations as may be prescribed by law.

#### COUNTY COURTS.

SEC. 19. There shall be elected in each organized county a county judge who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

SEC. 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate guardianship and settlement of estates of deceased persons and such other civil and criminal jurisdiction as may be conferred by law, provided that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars, except in matters of probate guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the Supreme court in such cases and in such manner as may be prescribed by law, provided that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities and towns.

SEC. 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters not of the grade of felony, as the Legislature may prescribe, and the prosecutions therein may be by information or otherwise as the Legislature may provide.

#### JUSTICE OF THE PEACE.

SEC. 21. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any case wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title of real property shall be called in question.

## POLICE MAGISTRATE.

SEC. 23. The Legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively and such police magistrates may also be constituted ex-officio justice of the peace for their respective counties.

## STATE'S ATTORNEY.

SEC. 24. The Legislature shall have power to provide for State's attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of attorney general or State's attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for judges of circuit courts as prescribed in this article.

## MISCELLANEOUS.

SEC. 25. No person shall be eligible to the office of judge of the circuit or county courts unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this State or Territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

SEC. 26. The judges of the Supreme Court, circuit courts and county courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may, for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the State, shall expire on the same day.

SEC. 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the Legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

SEC. 28. Special terms of said courts may be held under such regulations as may be provided by law.

SEC. 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulations as may be prescribed by law.

SEC. 30. The judges of the Supreme Court, circuit court and county courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; provided, that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

SEC. 31. No judge of the Supreme Court or circuit courts shall act as attorney or counselor at law, nor shall any county judge act as attorney or counselor at law in any case which is or may be brought into his court or which may be appealed therefrom.

SEC. 32. There shall be a clerk of the circuit court in each organized county, who shall also be clerk of the county court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

SEC. 33. Until the legislature shall provide by law for fixing the terms of courts, the judges of the Supreme, circuit and county courts, respectively, shall fix the terms thereof.

SEC. 34. All laws relating to courts shall be general and of uniform operation throughout the State, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of such of the proceedings, judgments and decrees of such courts severally shall be uniform, provided, however, that the Legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof accordingly.

SEC. 35. No judge of the Supreme or circuit courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such term for any elective office, except that of judge of the Supreme Court, circuit court or county court, given by the Legislature or the people, shall be void.

SEC. 36. All judges or other officers of the Supreme, circuit or county courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.



SEC. 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the Supreme, circuit and county courts by the Governor. All other judicial and other officers by the county board of the county where the vacancy occurs; in cases of police magistrates, by the municipality.

SEC. 38. All processes shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

THOS. STERLING, Chairman.

H. A. HUMPHREY.

CHAUNCEY L. WOOD,

SAMUEL A. RAMSEY.

H. W. EDDY.

CARL SHERWOOD.

S. B. VANBUSKIRK.

H. F. FELLOWS.

D. CORSON.

Mr. VanBuskirk moved

That the report be made a special order for Thursday.

Mr. Cooper moved

To amend by making report special order for tomorrow.

Vote being taken upon the longest time first,

The motion to make the report special order for Thursday was lost.

Ayes, 26; noes, 27.

The motion to make the report the special order for tomorrow was carried.

Committee on Names, Boundaries and Seat of Government submitted a report as follows:

SIoux FALLS, July 23, 1889.

MR. PRESIDENT:

Your Committee on Name, Boundaries and Seat of Government, to whom was referred Article I of the Sioux Falls Constitution, have considered the same and respectfully recommend that Section 1 of said Article I be amended by inserting the word "South" before the word Dakota.

That Section 2 of said Article I be amended by inserting the word "South" before the word Dakota, and by striking out the



words "forty-sixth parallel of north latitude; thence west along the forty-sixth parallel of north latitude," and in lieu thereof insert the words, "seventh standard parallel; thence west on the line of the seventh standard parallel produced due west;" and therefore respectfully recommend the following as Article I of the Constitution, the same being in accordance with the "Omnibus Bill."

## ARTICLE I.

### NAME AND BOUNDARY.

SECTION 1. The name of the State shall be South Dakota.

SEC. 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota, to its intersection with the seventh standard parallel; thence west on the line of the seventh standard parallel produced due west to its intersection with the twenty-seventh meridian of longitude west from Washington; thence south on the twenty-seventh meridian of longitude west from Washington, to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

Respectfully submitted,

M. P. STROUPE, Chairman.

S. A. WHEELER,

W. T. WILLIAMS,

E. G. EDGERTON,

WM. VANEPS.

On motion of Mr. Davies

This report was made a special order for tomorrow.

Committee on Name, Boundaries and Seat of Government submitted the following report:

SIoux FALLS, July 23, 1889.

MR. PRESIDENT:

Your Committee on Name, Boundaries and Seat of Government, to whom was referred Article XX of the Sioux Falls Con-

stitution, have considered the same and beg leave to report the following as Article XX of the Constitution, and that the same is in accordance with the Sioux Falls Constitution, and the changes thereto authorized by the "Omnibus Bill," said Article XX being changed by substituting the words "South Dakota" in place of Dakota only.

## ARTICLE XX.

### SEAT OF GOVERNMENT.

SECTION 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota, in the same manner, and at the same election at which this Constitution shall be re-submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as herein provided.

SEC. 2. The Legislature at its first session after the admission of this State, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the State at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

SEC. 3. Should no place voted for at said election have a majority of all votes cast upon this question, the Governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

M. P. STROUPE, Chairman,  
S. A. WHEELER,  
E. G. EDGERTON,  
W. T. WILLIAMS,  
WM. VAN EPS.

On motion of Mr. Stroupe.

The above report was made a special order for tomorrow.

The Legislative Committee report, not being in form, was referred back for amendment.

## SPECIAL ORDER.

Report of Committee on Impeachment and Removal from Office read,

And on motion of Mr. Davies was adopted.

Report of Committee on Election and Right of Suffrage read.

Mr. Fellows moved

To amend the report by inserting the word "school" after the word "for" and before the word "purposes" in Section 9.

The report, as amended, was adopted.

Report of the Committee on Federal Relations, presenting an "Ordinance," was read and on motion of Mr. Dickinson, referred to the Committee on Schedule and Ordinance.

The report of the Committee on Federal Relations presenting A Memorial to the Congress of the United States in regard to a Geological and Hydrographic Survey, was read and on motion of Mr. Davies, adopted.

Consideration of the report of Committee on Education and School Lands, was deferred and the report was made the Special Order for tomorrow.

Report of the Committee on State Institutions and Public Buildings was read and on motion of Mr. Westcott, adopted.

Report of the Committee on Exemptions was read and on motion of Mr. Sterling, adopted.

Report of the Committee on Banking and Currency read and on motion of Mr. Young, adopted.

Report of the Committee on Seal and Coat-of-Arms read and on motion of Mr. Clough, adopted.

Report of the Committee on Agriculture and Manufactures read and on motion of Mr. Young, adopted.

Report of Committee on Military Affairs read and on motion of Mr. Young, adopted.

Report of the Committee on County and Township Organization read.

Mr. Dickinson moved to amend by inserting the word "other" after the word "such" and before the word "county" in the second line of Section (6). Motion carried.

Mr. Willis moved to amend by striking out the words "prefixing the word 'South to'" and in lieu thereof to place the words "inserting the word South before" in the last line of the introduction of the report. On motion of Mr. Ramsey the report as amended was adopted.

On motion of Mr. Fellows the Journal of the sixteenth day was approved.

Communication from the Prison Reform Society read.

On motion of Mr. Hall

The Convention adjourned.

## TWENTY-FIRST DAY.

SIOUX FALLS, DAKOTA, July 24, 1889.

2 o'clock P. M.

Convention called to order by the President.

Prayer was offered by Rev. Willis.

Journal read and approved.

### PETITIONS AND COMMUNICATIONS.

A petition was received from a mass meeting held in Huron asking the adoption of the Australian system of voting.

Referred to the Committee on Schedule.

### REPORTS OF STANDING COMMITTEES.

The committee on Congressional and Legislative apportionment submitted the following report.

SIOUX FALLS, July 24, 1889.

MR. PRESIDENT:

Your Committee on Congressional and Legislative Apportionment, to whom was referred Article XIX of the Constitution having had the same under careful consideration, beg leave to submit the following report relative thereto, and in which report there are no changes of the Constitution, except as relates to the reapportionment of districts as provided for in the Omnibus Enabling Act, and adding thereto a provision that the State shall constitute one congressional district, from which two (2) congressmen shall be elected at large. All of which changes are within the provisions of the Enabling Act, and herewith report Article XIX with said changes incorporated therein and respectfully recommend the adoption of the changes and the resubmission of the article as amended.

## ARTICLE XIX.

### CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SECTION I. Until otherwise provided by law, the members of the House of Representatives of the United States, apportioned to this State, shall be elected by the State at large.



SEC. 2. Until otherwise provided by law, the Senatorial and Representative Districts shall be formed, and the Senators and Representatives shall be apportioned as follows:

SENATORIAL DISTRICTS AND MEMBERS.

Dist.	Counties	Senators.
1	Union.....	1
2	Clay.....	1
3	Yankton.....	1
4	Bon Homme .....	1
5	Lincoln.....	1
6	Turner.....	1
7	Hutchinson .....	1
8	Charles Mix and Douglas .....	1
9	Minnehaha.....	2
10	McCook.....	1
11	Hanson.....	1
12	Davison.....	1
13	Aurora .....	1
14	Brule.....	1
15	Moody.....	1
16	Lake.....	1
17	Miner.....	1
18	Sanborn.....	1
19	Jerauld and Buffalo.....	1
20	Brookings .....	1
21	Kingsbury .....	1
22	Beadle .....	1
23	Hand .....	1
24	Hyde and Hughes.....	1
25	Sully and Potter.....	1
26	Deuel.....	1
27	Hamlin.....	1
28	Codington .....	1
29	Clark.....	1
30	Spink.....	2
31	Grant and Roberts .....	1
32	Day .....	1
33	Brown .....	2
34	Marshall.....	1
35	Faulk.....	1
36	Edmunds and McPherson .....	1
37	Walworth and Campbell.....	1
38	Lawrence.....	2

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39	Pennington .....	1
40	Meade and Butte .....	1
41	Custer and Fall River, .....	1

Representative Districts with number of Representatives to each district—

Dist.	Counties.	No. Representatives.
1	Union .....	3
2	Clay .....	2
3	Yankton .....	4
4	Bon Homme .....	3
5	Lincoln .....	3
6	Turner .....	3
7	Hutchinson .....	2
8	Douglass .....	2
9	Charles Mix .....	2
10	Minnehaha .....	7
11	McCook .....	2
12	Hanson .....	2
13	Davison .....	2
14	Aurora .....	2
15	Brule .....	3
16	Moody .....	2
17	Lake .....	3
18	Miner .....	2
19	Sanborn .....	2
20	Jerauld .....	1
21	Buffalo .....	1
22	Brookings .....	3
23	Kingsbury .....	3
24	Beadle .....	5
25	Hand .....	3
26	Hyde .....	1
27	Hughes .....	1
28	Sully .....	1
29	Deuel .....	2
30	Hamlin .....	2
31	Codington .....	3
32	Clark .....	3
33	Spink .....	5
34	Faulk .....	2
35	Potter .....	1
36	Grant .....	2
37	Roberts .....	1
38	Day .....	3

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39	Marshall .....	2
40	Brown .....	8
41	Edmunds .....	2
42	Walworth .....	1
43	McPherson .....	2
44	Campbell .....	1
45	Fall River .....	1
46	Custer .....	2
47	Pennington .....	2
48	Meade .....	2
49	Lawrence .....	6
50	Butte .....	1
	Total .....	124.

All of which is respectfully submitted,

C. H. VANTASSEL, Chairman.

W. H. MATSON,

J. V. WILLIS,

R. F. LYONS,

A. O. RINGSRUD,

JOSEPH ZITKA,

M. P. STROUPE,

WM. S. O'BRIEN,

SANFORD PARKER,

E. E. CLOUGH.

M. R. HENINGER,

I. ATKINSON,

C. R. WESTCOTT,

T. W. P. LEE,

E. G. EDGERTON,

C. A. HOULTON,

J. G. DAVIES,

H. M. WILLIAMSON,

S. F. HUNTLEY,

J. A. FOWLES,

GEO. H. CULVER,

T. F. DIEFENDORF,

C. G. COATS,

T. W. THOMPSON.

The Committee on Schedule and Ordinance submitted the following report:

SIoux FALLS, S. D., July 24, 1889.

MR. PRESIDENT:

Your Committee on Schedule and Ordinance, to whom was referred Article XXV of the Constitution, entitled, "Minority

Representation," having had the same under consideration, beg leave to report, that no changes or amendments are necessary to comply with the provisions of the "Omnibus" Enabling act.

And we herewith report Article XXV as found in the Constitution, and respectfully recommend the re-submission of the same.

## ARTICLE XXV.

### MINORITY REPRESENTATION.

[To be submitted to a separate vote as provided by the Schedule and Ordinance.]

SECTION 1. The House of Representatives shall consist of three times the number of the members of the Senate and the term of office shall be two years. Three Representatives shall be elected in each senatorial district at the first general election held after this Constitution takes effect, and every two years thereafter.

SECTION 2. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he shall see fit; and the candidates highest in votes shall be declared elected.

Schedule and Ordinance Committee,

By L. H. HOLE, Chairman.

The same committee also submitted the following report:

SIoux FALLS, July 24, 1889.

MR. PRESIDENT:

Your Committee on Schedule and Ordinance, to whom was referred Article XXIV of the Constitution, entitled, "Prohibition," having had the same under consideration, beg leave to report, that no changes or amendments are necessary to comply with the provisions of the "Omnibus" Enabling Act.

And we herewith report Article XXIV as found in the Constitution and respectfully recommend the re-submission of the same.

## ARTICLE XXIV.

### PROHIBITION

[To be submitted to a separate vote as provided by Schedule and Ordinance.]

No person or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale, as a beverage, any intoxicating liquor. The



Legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof.

Schedule and Ordinance Committee, by

L. H. HOLE, Chairman.

The Committee on Revenue and Finance submitted the following report:

SIoux FALLS, SOUTH DAKOTA, July 24, 1889.

MR. PRESIDENT:

Your Committee on "Revenue and Finance," to whom was referred Article XI entitled "Revenue and Finance" have considered the same and have compared said Article XI with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article XI of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

## ARTICLE XI.

### REVENUE AND FINANCE.

SECTION 1. The Legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the State for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for State and county purposes. And whenever it shall appear that such ordinary expenses shall exceed the income of the State for such year, the Legislature shall provide for levying a tax for the ensuing year, sufficient with other resources of income to pay the deficiency of the preceding year together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the State as ascertained by the last assessment made for State and county purposes.

SEC. 2. All taxes to be raised in this State shall be uniform on all real and personal property, according to its value in money to be ascertained by such rules of appraisement and assessment as may be prescribed by the Legislature by general law, so that

every person and corporation shall pay a tax in proportion to the value of his, her or its property. And the Legislature shall provide by general law for the assessing and levying of taxes on all corporation property, as near as may be by the same methods as are provided for the assessing and levying of taxes on individual property.

SEC. 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

SEC. 4. The Legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

SEC. 5. The property of the United States and of the State, county and municipal corporations, both real and personal shall be exempt from taxation.

SEC. 6. The Legislature shall, by general law, exempt from taxation property used exclusively for agricultural and horticultural societies, for schools, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

SEC. 7. All laws exempting property from taxation, other than that enumerated in Sections 5 and 6 of this Article shall be void.

SEC. 8. No tax shall be levied except in pursuance of a law which shall distinctly state the object of the same, to which the tax only shall be applied.

SEC. 9. All taxes levied and collected for State purposes, shall be paid into the State Treasury. No indebtedness shall be incurred or money expended by the State, and no warrants shall be drawn upon the State Treasury except in pursuance of an appropriation for the specific purpose first made. The Legislature shall provide by suitable enactment for carrying this section into effect.

SEC. 10. The Legislature may vest the corporate authority of cities, towns and villages, with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

SEC. 11. The making of profit, directly or indirectly, out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

SEC. 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually, in such manner as the Legislature may provide.

W. H. GODDARD, Chairman.  
C. A. HOULTON,  
JOSEPH ZITKA,  
C. J. B. HARRIS,  
A. O. RINGSRUD,  
L. T. BOUCHER,  
WM. VANEPS.  
Committee.

#### REPORT OF SELECT COMMITTEES.

Mr. Jolley, from the Committee on Rules, submitted the following:

SIoux FALLS, Dakota, July 24, 1889.

MR. PRESIDENT:

Your Committee on Rules have instructed me to report that they recommend the two following additional rules for the government of this Convention, to wit:

#### RULE 46.

That all claims and accounts against this Convention, not paid by the United States, shall at once be presented to the Committee on Expenses of the Convention, and shall be considered by that committee and reported to this convention; and after any claim is allowed by this convention, a certificate of indebtedness shall be issued and signed by the President and Chief Clerk of this Convention to the person to whom said claim is allowed, in substantially the following form:

SIoux FALLS, Dakota, 1889.

That A. B. has acted as  
of the Constitutional Convention held at Sioux Falls, Dakota, in  
the year 1889, for days, at \$ per day, and  
is entitled to the sum of as allowed by  
said Constitutional Convention.

President.

Chief Clerk.

## RULE 47,

That each member and officer of this Convention shall have a certificate of indebtedness issued to him, as provided by Rule 46, at the same per diem as is allowed by the United States in the Omnibus Bill, for each and every day he attends this Convention, after the appropriation of \$20,000, made by the United States, is expended.

JOHN L. JOLLEY,  
Chairman.

On motion of Mr. Jolley the report was adopted.

## SPECIAL ORDER.

The report of the Committee on Education and School Lands was called, and upon motion of Mr. Corson, action was postponed, making the report the Special Order for tomorrow.

The report of the Judiciary Committee was read.

Mr. Sterling moved to adopt.

Mr. Spooner moved the following amendment:

I move as an amendment that the report of the Judiciary Committee be adopted with the exception of the proposed division of the Territory included in the proposed Third, Fifth and Sixth Judicial Circuits and that the territory included in said proposed circuits be divided into circuits containing the following counties, viz.:

Third Circuit: The counties of Brookings, Deuel, Hamlin, Codington, Clark, Spink, Grant, Roberts, and all that part of the Wahpeton and Sisseton Indian Reservation in this State except that portion lying in Marshall county.

Fifth Circuit: The counties of Kingsbury, Beadle, Hand, Hyde, Hughes, Sully, Potter, Faulk and Stanley.

Sixth Circuit: The counties of Day, Marshall, Brown, McPherson, Edmunds, Walworth, Campbell, and all the territory within said State not included in any other judicial circuit.

Mr. Wood of Pennington moved to recommit the whole subject to the committee with the instruction to report nine (9) judicial circuits instead of eight (8) and to report tomorrow.

On motion of Mr. Humphrey the motion to recommit was laid upon the table.

On motion of Mr. Clough the previous question was ordered.

The vote being taken upon the amendment.

The result was,



Ayes—Messrs. Cook, Cooper, Corson, Couchman, Craig, Culver, Dickinson, Diefendorf, Fellows, Goddard, Harris, Heninger, Hole, Jolley, Lyons, Matson, Ringsrud, Spooner, Stoddard, Stroupe, VanTassel, Wood of Pennington—(22).

Noes—Messrs. Anderson, Atkinson, Berdahl, Buechler, Clough, Coats, Davies, Downing, Eddy, Edgerton of Yankton, Fowles, Gifford, Hall, Hartley, Houlton, Huntley, Humphrey, Jeffries, Kimball, Lee, McFarland, O'Brien, Peck, Ramsey, Scollard, Sherwood, Smith, VanBuskirk, VanEps, Westcott, Wheeler, Whitlock, Willis, Williams, Williamson, Young, Zitka, Sterling and Mr. President—(39).

So the amendment was lost.

The vote being taken upon the adoption of the report of the Judiciary Committee the result was as follows:

Ayes—Messrs. Anderson, Berdahl, Buechler, Clough, Coats, Cooper, Corson, Davies, Downing, Eddy, Edgerton of Yankton, Fellows, Fowles, Gifford, Hall, Hartley, Houlton, Huntley, Humphrey, Jeffries, Jolley, Kimball, Lee, McFarland, O'Brien, Peck, Ramsey, Ringsrud, Scollard, Sherwood, Smith, Sterling, VanBuskirk, VanEps, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Pennington, Young, Zitka—(42).

Noes—Messrs. Atkinson, Cook, Couchman, Craig, Culver, Dickinson, Diefendorf, Goddard, Harris, Heninger, Hole, Lyons, Matson, Spooner, Stoddard, Stroupe, VanTassel, Westcott and Mr. President—(19).

So the report was adopted.

Mr. Hall moved to reconsider the vote by which the report was adopted.

On motion of Mr. Humphrey the motion to reconsider was laid upon the table.

On motion of Mr. Willis the Convention adjourned.

TWENTY-SECOND DAY.

SIoux FALLS, Dakota, July 25, 1889.

2 O'CLOCK P. M.

Convention called to order by the president.

Prayer by the Rev. Clough.

The Journal read and approved.

REPORT OF STANDING COMMITTEES.

The Committee on Printing made the following report:

July 25, 1889.

MR. PRESIDENT—

Your Committee on printing having had the desirability of putting into the hands of the people, the Constitution, submitted to them by this Convention, under careful consideration, have instructed me to report that they recommend that this convention do provide for the publication and distribution of 200,000 newspaper supplements containing the Constitution and Schedule, 10,000 of which shall be printed in the German and 10,000 in the Scandinavian language.

All of which is respectfully submitted.

H. A. HUMPHREY,  
Chairman Committee.

The following report of the Judiciary Committee was presented:

MR. PRESIDENT:

Your Committee on Judiciary, to whom was referred the question as to whether this Convention has the legal power to provide for the election of a circuit clerk at the October election, direct me to report that the committee, having had said question under consideration, are of the opinion that the Convention has the legal power to provide for such election, and recommend that provision for the election of such officer be made in the schedule and ordinance

THOS. STERLING,  
Chairman Judiciary Committee.

The following report of the Legislative Committee was submitted:

SIoux FALLS, July 25.

MR. PRESIDENT:

Your Committee on Legislative, to whom was referred Article III, entitled "Legislative Department," have considered the same and have compared said Article III with the Sioux Falls Constitution and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article III of the Constitution, and that the same is in accordance with the Sioux Falls Constitution and the "Omnibus Bill."

No amendments made.

### ARTICLE III.

#### LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a Legislature, which shall consist of a Senate and House of Representatives.

SEC. 2. The number of members of the House of Representatives shall not be less than seventy-five nor more than one hundred and thirty-five. The number of members of the Senate shall not be less than twenty-five nor more than forty-five.

The sessions of the Legislature shall be biennial except as otherwise provided in this Constitution.

SEC. 3. No person shall be eligible to the office of Senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the State or Territory for two years next preceding his election.

No person shall be eligible to the office of Representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the State or Territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No judge or clerk of any court, secretary of State, attorney general, States' attorney, recorder, sheriff or collector of public moneys, member of either house of Congress, or person holding any lucrative office under the United States, or this State, or any foreign government, shall be a member of the Legislature; provided, that appointments in the militia, the offices of notary public and justice of the peace shall not be considered lucrative, nor

shall any person holding any office of honor or profit under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the Legislature or become a member thereof.

SEC. 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been, or may be collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the Legislature or to any office in either branch thereof.

SEC. 5. The Legislature shall provide by law for the enumeration of the inhabitants of the State in the year one thousand eight hundred and ninety-five and every ten years thereafter, and at its first regular session, after each enumeration made by authority of the United States, but at no other time; the Legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy; provided, that the Legislature may make apportionment at its first session after the admission of South Dakota as a State.

SEC. 6. The terms of the office of the members of the Legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the Legislature, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

Each regular session of the Legislature shall not exceed sixty days, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except per diem and mileage.

SEC. 7. The Legislature shall meet at the seat of government on the first Tuesday after the first Monday of January, at 12 o'clock m., in the year next ensuing the election of members thereof, and at no other time except as provided by this Constitution.

SEC. 8. Members of the Legislature and officers thereof before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of South Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I



have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person, for any vote or influence I may give, or withhold on any bill or resolution, or appropriation, or for any other official act.

This oath shall be administered by a Judge of the Supreme or circuit court, or the presiding officer of either House, in the hall of the House to which the member or officer is elected, and the Secretary of State shall record and file the oath subscribed by each member and officer.

Any member or officer who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the Legislature who shall be convicted of having sworn falsely to or violated his said oath, shall forfeit his office and be disqualified thereafter from holding his office of Senator or member of the House of Representatives or any office within the gift of the Legislature.

SEC. 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each House shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such a penalty as each House may provide.

Each House shall determine the rules of its proceedings, shall choose its own officers and employes, and fix the pay thereof, except as otherwise provided in this Constitution.

SEC. 10. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature.

SEC. 11. Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same; and for words used in any speech or debate in either House, they shall not be questioned in any other place.

SEC. 12. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the Governor, the Governor and Senate, or from

the Legislature during the term for which he shall have been elected, and all such appointments and votes given for any such members for any such office or appointment shall be void; nor shall any member of the Legislature during the term for which he shall have been elected, or within one year thereafter be interested, directly or indirectly, in any contract with the State or any county thereof, authorized by any law passed during the term for which he shall have been elected.

SEC. 13. Each house shall keep a Journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and of the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the Journal.

SEC. 14. In all elections to be made by the Legislature the members thereof shall vote viva voce and their votes shall be entered in the Journal.

SEC. 15. The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 17. Every bill shall be read three several times, but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

SEC. 18. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of South Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the Legislature. And the question upon the final passage shall be taken upon its last reading and the yeas and nays shall be entered upon the Journal.

SEC. 19. The presiding officer of each house shall, in the presence of the house over which he shall preside, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of signing, shall be entered upon the Journal.

SEC. 20. Any bill may originate in either house of the Legislature, and a bill passed by one house may be amended in the other.

SEC. 21. No law shall embrace more than one subject, which shall be expressed in its title.

SEC. 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the Legislature shall by a vote of two-thirds of all the members of each house, otherwise direct.

SEC. 23. The Legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir-at-law of another.
3. Locating or changing county-seats.
4. Regulatung county and township affairs.
5. Incorporating cities, towns and villages or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the State.
8. Remitting fines, penalties and forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the Legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable, no special law shall be enacted.

SEC. 24. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

SEC. 25. The Legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense, or for any purpose whatever.

SEC. 26. The Legislature shall not delegate to any special commission, private corporation or association any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise, or levy taxes or to select a capital site or to perform any municipal functions whatever.



SEC. 27. The Legislature shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 28. Any person who shall give, demand, directly or indirectly, any money, testimonial, privilege or personal advantage, anything of any value to any executive or judicial officer or member of the Legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the Legislature, or of public officers of the State, or any municipal division thereof, and any effort towards solicitation of said members of the Legislature or officers to influence their official action, shall be defined by law and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense or bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterwards be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offenses aforesaid, shall be disqualified from holding any office or position or office of trust or profit in this State.

A. B. McFARLAND, Chairman.  
SAMUEL A. RAMSEY,  
R. F. LYONS,  
JOSEPH ZITKA.

The Schedule Committee presented the following report:

SIoux FALLS, D. T., July 25, 1889.

MR. PRESIDENT:

Your Committee on Schedule and Submission, to whom was referred, "An ordinance irrevocable without the consent of the United States and the people of this State, relating to religious toleration, public lands, taxation of lands, debts of Territory of Dakota and public schools," have had the same under consideration and have instructed me to report as follows:

That the following be a substitute for the above described ordinance, and that the following be substituted as Article XXII of the Sioux Falls Constitution, as being directed by the Act of Congress, known as the "Omnibus Bill," and your committee recommend that the following be adopted as Article XXII,



“Compact with the United States,” and that the same be adopted by this Convention.

## ARTICLE XXII.

### COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the State of South Dakota, expressed by their Legislative Assembly.

First: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second: That we, the people inhabiting the State of South Dakota, do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States;

That the lands belonging to citizens of the United States residing without the said State, shall never be taxed at a higher rate than the lands belonging to residents of this State. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States, shall remain exempt to the extent, and as prescribed by such act of Congress.

Third. That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be

open to all the children of this State, and free from sectarian control.

By order of committee,  
By L. H. HOLE, Chairman.

#### CONSIDERATION OF REPORTS OF STANDING COMMITTEES.

The report of the Congressional and Legislative Apportionment Committee was called and

Mr. Van Tassel moved its adoption.

Mr. Sterling moved

To postpone till 8 P. M. today, which motion was lost.

The vote being taken on adoption, resulted as follows:

Ayes—Anderson, Atkinson, Buechler, Clough, Cook, Cooper, Corson, Couchman, Craig, Culver, Davies, Dickinson, Diefendorf, Downing, Eddy, Edgerton of Yankton, Fellows, Fowles, Goddard, Hall, Harris, Hartley, Heninger, Hole, Houlton, Huntley, Humphrey, Jeffries, Jolley, Kimball, Lee, Lyons, Matson, O'Brien, Peck, Ramsey, Ringsrud, Scollard, Sherwood, Smith, Spooner, Stoddard, Stroupe, Thompson, VanBuskirk, Van Tassel, Westcott, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Pennington, Wood of Spink, Young, Zitka, and Mr. President—(57).

Noes—Gifford, McFarland and Sterling—(3).

So the report was adopted.

Mr. Harris moved

To reconsider the vote by which the report was adopted and also to lay the motion to reconsider on the table.

Which motions were carried.

#### REPORTS OF SELECT COMMITTEES.

The following report was submitted:

SIoux FALLS, Dakota, July 25, 1889.

MR. PRESIDENT:

Your Special Committee to whom was referred the communication from the officers of "The American Sabbath Union," having carefully examined the same and the matters therein referred to, beg leave to submit the following report.

That in our judgment, this Convention acting under enumerated powers fixed by and contained in the Act of Congress known as "The Omnibus Bill," have no power to change, alter or amend the Sioux Falls Constitution of 1885, by inserting the provision named in said communication nor any similar provision, for the reason that the power so to do is not conferred upon this convention by the said act of Congress.

Your committee further recommends that the Chief Clerk of this Convention on behalf of this Convention send in writing to the Hon. Elliott F. Shepard, Gen. O. O. Howard, U. S. A., Rev. J. H. Knowles, D. D., Rev. Wilbur F. Crafts, D. D., officers of the American Sabbath Union, the following communication:

GENTLEMEN:

We, the Constitutional Convention of South Dakota hereby acknowledge the receipt of your telegraphic communication bearing date of July 20, 1889, recommending the insertion into the Constitution of South Dakota of certain provisions relating to the observance of the Sabbath day.

We have the honor to inform you that your communication was referred to a special committee of this Convention and said committee after careful and mature consideration of your communication, made and submitted to this Convention the following report.

Your special committee to whom was referred the communication from the officers of the American Sabbath Union, having carefully examined the same and the matters therein referred to, beg leave to submit the following report:

That in our judgment this Convention, acting under enumerated powers fixed by and contained in the Act of Congress known as the "Omnibus Bill," have no power to change, alter or amend the Sioux Falls Constitution of 1885, by inserting the provisions named in said communication nor any similar provision for the reason that the power so to do is not conferred upon this Convention by the said Act of Congress, which said report was unanimously adopted by the Convention.

It is therefore apparent that no further action can be taken by this Convention on your communication and the matters therein referred to.

Respectfully submitted,  
E. E. CLOUGH.  
S. F. HUNTLEY,  
J. V. WILLIS,  
SAMUEL A. RAMSEY.  
CHAUNCEY L. WOOD,

On motion of Mr. Clough the above report was adopted.

Mr. Wood of Pennington moved

To suspend the rules and consider the report of the Judiciary Committee, relating to Clerks of the Circuit Court. Motion was lost.

## SPECIAL ORDER.

The report of the Committee on Education and school lands read and Mr. Humphrey moved its adoption.

Mr. Corson moved

To strike out of the report amendment number "Fourth" and to substitute for Section 8 as reported, the original Section 8 of the Sioux Falls Constitution.

Mr. Wood of Pennington moved

As an amendment that the words "and other" in the first sub-division of the report be stricken from the report. Carried.

Mr. Corson's motion as amended was adopted.

Mr. Sterling moved the following amendment:

That report of the Committee on Education and school lands be amended so that Section 9 of Article VIII shall read as follows:

SEC. 9. The lands mentioned in this Article may, under such regulations as the Legislature shall prescribe, be leased for periods of not more than five years in quantities not exceeding one section to any one person or company. All rents shall be payable annually in advance, nor shall any lease be valid until it receives the approval of the Governor.

Mr. Westcott moved to lay the amendment on the table which motion was carried.

The vote being taken on the report of the Committee as amended

The report was adopted.

The report of the Committee on Name, Boundary and Seat of Government in regard to Name and Boundary,

Was, on motion of Mr. Stroupe adopted.

The report of the Committee on Name, Boundaries and Seat of Government, relating to seat of government,

Was, on motion of Mr. Stroupe, adopted.

Mr. Clough offered a resolution in relation to the words "secretary and chief clerk" as appearing in the Journal, which was referred to the Committee on Rules.

On motion of Mr. Spooner,

It was ordered that when the Convention adjourn it adjourn to meet at 9 A. M. tomorrow.

On motion of Mr. Humphrey,

The Committee on Schedule and Ordinance were instructed to report at 9 o'clock A. M. tomorrow.

On motion of Mr. Humphrey,



The reports of the Schedule and Ordinance Committee was made special order for 9 A. M. tomorrow.

On motion of Mr. Fellows,

The vote by which the Schedule and Ordinance Committee were instructed to report tomorrow at 9 o'clock A. M. was Reconsidered.

The vote being again taken to instruct the committee to report tomorrow at 9 o'clock A. M.,

Motion was lost.

On motion of Mr. Sherwood,

The Convention adjourned.

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## TWENTY-THIRD DAY.

SIoux FALLS, Dakota, July 26, 1889.

9 o'clock A. M.

Convention called to order by the President.

Prayer by Rev. Lee.

Journal read and approved.

### REPORTS OF STANDING COMMITTEES.

The minority of the Judiciary Committee presented the following report:

MR. PRESIDENT:

The undersigned members of the Judiciary Committee would respectfully represent that we have carefully examined the Sioux Falls Constitution and the Omnibus Bill, and are unable to find any provision or authority in either, by which this Convention can provide by ordinance or otherwise for the election of any other than State officers at the election held for the adoption of the Constitution. That neither the clerk of the court, register of deeds, or any other of the county officers are by the said Constitution, or Omnibus Bill, considered as State officers nor have they ever been treated as State officers in the administration of the affairs of government, but especially does the said Constitution treat and consider these officers as county officers and provides for their election at the next general election after the admission of the State into the Union. We therefore beg

leave to dissent from the opinion of the Committee heretofore submitted.

S. B. VANBUSKIRK,  
GEO. C. COOPER,  
H. F. FELLOWS,  
THOS. STFRLING,  
SAMUEL A. RAMSEY,  
H. W. EDDY,  
A. J. BERDAHL.

Committee on Name, Boundaries and Seat of Government presented the following report:

SIoux FALLS, July 26, 1889.

Your Committee on Name, Boundaries and Seat of Government, to whom was referred the resolution presented by Mr. Goddard, of McCook county, relative to the seventh standard, parallel have considered the same, and beg leave to report, that in the opinion of your committee, the Constitutional Conventions of North and South Dakota are not authorized by the "Omnibus Bill" to determine what constitutes the true seventh standard parallel. We therefore respectfully recommend that no action be taken on the resolution.

Respectfully submitted,

M. P. STROUPE,  
Chairman.  
S. A. WHEELER,  
JONATHAN KIMBALL,  
W. T. WILLIAMS,  
E. G. EDGERTON,  
WM. VANEPS.

On motion of Mr. Stroupe,

The report was adopted.

Report of Committee on Printing called.

Mr. Sherwood moved

To amend by substituting the words, "twenty thousand" wherever the figures 10,000 appear.

Mr. Zitka moved

An amendment to the amendment that 10,000 copies be printed in the Bohemian language.

Both of which motions were carried.

Report as amended was adopted.

Mr. Spooner presented a petition from citizens of Kingsbury County, asking that the modified Australian system of voting be adopted for the regulation of the October election.

## SPECIAL ORDER.

The report of the Committee on Schedule and Ordinance, relating to Minority Representation, called, and on motion of Mr. Hole, adopted.

Report of Committee on Schedule and Ordinance, relating to Prohibition, on motion of Mr. Hole, adopted.

Report of the Committee on Revenue and Finance was, on motion of Mr. Goddard, adopted.

Report of Committee on Legislative Department was, on motion of Mr. McFarland, adopted.

Moved by Mr. Dickinson

That the rules be suspended and the convention now consider the majority and minority report of the Judiciary committee relating to the election of Clerks of the circuit court.

Ayes 26; noes 23.

There not being the necessary two-thirds to suspend the rules.

The motion was lost.

On motion of Mr. Jolley

The rules were suspended and the Compact with the United States was adopted.

The committee on Schedule presented the following report:

## SCHEDULE AND ORDINANCE.

SECTION 1. That no inconvenience may arise from the change of the Territorial government to the permanent State government, it is hereby declared that all writs, actions, prosecutions, claims and rights of individuals, and all bodies corporate, shall continue as if no change had taken place in this government; and all process which may be before the organization of the Judicial Department under this Constitution, issued under the authority of the Territory of Dakota, within the boundary of this State, shall be as valid as if issued in the name of the State of South Dakota.

SEC. 2. That all fines, penalties, forfeitures, and escheats accruing to the Territory of Dakota, within the boundary of the State of South Dakota, shall accrue to the use of said State.

SEC. 3. That all recognizances, bonds, obligations or other undertakings, heretofore taken, or which may be taken before the organization of the Judicial Department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State of South Dakota; and all bonds,

obligations or other undertakings, executed to this Territory, within the boundaries of the State of South Dakota, or to any officer in his official capacity, shall pass over to the proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for, and recovered accordingly.

All criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the Judicial Department, under this Constitution, and which shall then be pending, may be prosecuted to judgment, and executed in the name of the State.

SEC. 4. All officers, civil and military, now holding their offices, and appointments in this Territory, under the authority of the United States, or under the authority of the Territory of Dakota, shall continue to hold and exercise their respective offices, and appointments until superseded under this Constitution,

Provided: That the provisions of the above sections shall be subject to the provisions of the act of Congress providing for the admission of the State of South Dakota, approved by the President of the United States, on February 22, 1889.

SEC. 5. This Constitution shall be submitted for adoption or rejection, to a vote of the electors, qualified by the laws of this Territory to vote, at all elections, at the election to be held on Tuesday, October 1, 1889.

At the said election, the ballots shall be in the following form:

For the Constitution: Yes. No.

For Prohibition: Yes. No.

For Minority Representation: Yes. No.

As a heading to each of said ballots shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the Constitution, or for any of the articles submitted to a separate vote, must erase the word "No."

All persons who desire to vote against the Constitution, or against any article submitted separately must erase the word "Yes."

Any person may have printed or written on his ballot only the words, "For the Constitution" or "Against the Constitution," and such ballots shall be counted for or against the Constitution accordingly. The same provision shall apply to articles submitted separately.

In addition to the foregoing election for the Constitution, and for the article submitted by this Convention for a separate



vote thereon, an election shall be held at the same time and places, by the said qualified electors, for the following State officers, to be voted for on the same ballot as above provided, for votes on the Constitution and separate articles, to-wit:

A Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of the Supreme, circuit and county courts, Representatives in Congress, State Senators, and Representatives in the Legislature.

All the elections above provided for shall be held in the same manner and form as provided, for the election for the adoption or rejection of the Constitution. And the names of all officers above specified to be voted for at such election, shall be written or printed upon the same ballots as the vote for or against the Constitution.

The judges of election in counting the ballots voted at such election, shall count all the affirmative ballots upon the Constitution as votes for the Constitution: and they shall count all the negative ballots voted at said election upon the Constitution; as votes against the Constitution; and ballots voted at said election upon which neither of said words, "yes" or "no" following the words "for the Constitution" are erased, shall not be counted upon such proposition. And they shall count all affirmative ballots so voted upon the article on prohibition, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article, as votes against such article.

And ballots upon which neither the words "yes" or "no" following the words "For Prohibition" are erased, shall not be counted upon such proposition. And they shall count all the affirmative ballots so voted upon the article on minority representation, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article, as votes against such article. And ballots upon which neither of said words, "yes" or "no," following the words "For minority representation" are erased, shall not be counted upon such proposition.

If it shall appear in accordance with the returns hereinafter provided for, that a majority of the votes polled at such election, for and against the Constitution, are for the Constitution, then this Constitution shall be the Constitution of the State of South Dakota. If it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "prohibition" are for prohibition, then said Article XXIV shall be and form a part of this Constitution, and be in

full force and effect as such from the date of said election. But if a majority of said votes shall appear, according to said returns, to be against prohibition, then Article XXIV shall be null and void and shall not be a part of this Constitution.

And if it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against minority representation, are for minority representation, then Article XXV shall be and form a part of said Constitution, and be in full force and effect as such from the date of said election. But if a majority of said votes shall appear, according to said returns, to be against minority representation, then said Article XXV shall be null and void and shall not be a part of this Constitution.

At such election the person voted for, for any one of the offices to be filled at such election, who shall receive the highest number of votes cast at said election, shall be declared elected to said office.

SEC. 6. At the same time and places of election, there shall be held by said qualified electors an election for the place of the temporary seat of government.

On each ballot, and on the same ballot, on which are the matters voted for or against, as hereinbefore provided, shall be written or printed the words, "For temporary seat of Government."

(Here insert the name of the city or town or place to be voted for.)

And upon the canvass, and return of the vote, made and as hereinafter provided for, the name of the city, town, or place, which shall have received the largest number of votes for said temporary seat of government, shall be declared by the Governor, Chief Justice and Secretary of the Territory of Dakota, or by any two of them at the same time that they shall canvass the vote for or against the Constitution, together with the whole number of votes cast for each city, town or place, and the officers, above named, shall immediately after the result of said election shall have been ascertained, issue a proclamation directing the Legislature elected at said election, to assemble at the said city, town, or place so selected, on the day fixed by this schedule and ordinance.

SEC. 7. The election provided for herein shall be under the provisions of the Constitution herewith submitted, and shall be conducted, in all respects, as elections are conducted under the general laws of the Territory of Dakota, except as herein provided. No mere technicalities or informalities, in the manner or form of

election, or neglect of any officer to perform his duty with regard thereto, shall be deemed to vitiate or avoid the same, it being the true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of South Dakota, as expressed by their votes at the polls.

SEC. 8. Immediately after the election herein provided for, the judges of election at each voting place, shall make a true and complete count of all the votes duly cast at such election, and shall certify and return the result of the same with the names of all the candidates, and the number of votes cast for each candidate, and the number of votes cast for and against the Constitution, and the number of votes cast for and against Prohibition, and the number of votes cast for and against minority representation, and the number of votes cast for each city, town or place, for the "temporary seat of government," to the county clerk or auditor of their respective counties, together with one of the poll lists and election books used in said election.

SEC. 9. Within five days after said election the several boards of county canvassers, provided by law for the canvassing of the results of the election, shall make and certify to the Secretary of the Territory of Dakota, the true and correct return of the total number of votes cast for the Constitution, and against the Constitution, of the number of votes cast for and against "prohibition," and the number of votes cast for and against "minority representation," and the number of votes cast for each city, town or place as the "temporary seat of government," and of the number of votes cast for each person voted for at such election, except county officers and members of the Legislature, and shall transmit the same to the Secretary of the Territory of Dakota, by mail, and shall file with the County Clerk or Auditor of each of said counties a duplicate and certified copy of said return.

Said board of county canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast for the respective offices of Judge of the County Court, and Representatives in the Legislature, and for State Senator or Senators.

SEC. 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the Clerks and Auditors of the respective counties to attend at the office of the County Clerk of the senior county in date of organization within twenty days after the date of election and they shall compare the votes given in the several counties comprising such Senatorial and Representative district and such



clerks or auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for State Senator or Representative or both; which certificate shall be delivered to the person entitled thereto on his application to the Clerk of the senior county of such district.

SEC. 11. The Secretary of the Territory shall receive all returns of election transmitted to him as above provided, and shall preserve the same, and after they have been canvassed as hereinafter provided, and after the admission of the State of South Dakota, into the Union, he shall deliver said returns to the proper State officer of said State of South Dakota.

Within fifteen days after said election, the Secretary of the Territory, with the Governor, and Chief Justice thereof or any two of them, shall canvass such returns, and certify the same to the President of the United States, as provided in the Enabling Act.

They shall also ascertain the total number of votes cast at such election for the Constitution and against the Constitution; The total number of votes cast for and against Prohibition, and the total number of votes cast for and against Minority Representation; and the total number of votes cast for each city, town or place as the "temporary seat of government;" and the total number of votes cast for each person voted for, for any office at said election, excepting County Judges and members of the Legislature, and shall declare the result of said election in conformity with such vote, and the Governor of the Territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to the State Legislature, immediately upon its organization, a list of all of the State and judicial officers who shall thus be ascertained to be duly elected.

The various county and district canvassing boards shall make and transmit to the Secretary of the Territory, the names of all persons declared by them to be elected members of the Senate and House of Representatives of the State of South Dakota; he shall make separate lists of the Senators, and Representatives so elected, which lists shall constitute the rolls under which the Senate and House of Representatives shall be organized.

The Governor of the Territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes, for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Com-



missioner of School and Public Lands and Judges of the Supreme, and circuit courts. Such certificates to be attested by the Secretary of the Territory.

SEC. 12. The apportionment made in this Constitution shall govern the elections above provided for, for members of the State Legislature until otherwise provided by law.

At the first election held under this Ordinance for Senators and Representatives of the Legislature, there shall be elected forty-five Senators, and one hundred and twenty-four Representatives in the State Legislature respectfully.

SEC. 13. The Legislature elected under the provisions of this Ordinance and Constitution shall assemble at the temporary seat of government on the third Tuesday in October in the year A. D. 1889, at 12 o'clock noon, and on the first day of their assemblage, the Governor and other State officers shall take the oath of office in the presence of the Legislature. The oath of office shall be administered to the members of the Legislature, and to the State officers by the Chief Justice of the Territory, or by any other officer, duly authorized by the laws of the Territory of Dakota to administer oaths.

SEC. 14. Immediately after the organization of the Legislature, and taking the oath of office by the State officers, the Legislature shall then and there proceed to the election of two Senators of the United States for the State of South Dakota, in the mode and manner provided by the laws of congress for the election of United States Senators. And the Governor and Secretary of the State of South Dakota shall certify the election of the said Senators, and two Representatives in Congress, in the manner required by law.

SEC. 15. Immediately after the election of the United States Senators as above provided for, said Legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock m.

Provided, however, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said Legislature shall convene within ten days after the date of the admission of the State into the Union.

SEC. 16. Nothing in this Constitution or Schedule contained shall be construed to authorize the Legislature to exercise any powers except such as are necessary to its first organization, and to elect United States Senators, and to adjourn as above provided.

Nor to authorize an officer of the Executive, Administrative or Judiciary departments, to exercise any duties of his office until

the State of South Dakota shall have been regularly admitted into the Union, excepting such as may be authorized by the Congress of the United States.

SEC. 17. The Ordinances and Schedule enacted by this Convention shall be held to be valid for all the purposes thereof.

SEC. 18. That we, the people of the State of South Dakota, do ordain:

First: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second: That we, the people inhabiting the State of South Dakota, do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States;

That the lands belonging to citizens of the United States residing without the said State, shall never be taxed at a higher rate than the lands belonging to residents of this State. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States, shall remain exempt to the extent, and as prescribed by such act of Congress.

Third. That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this State, and free from sectarian control.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota, expressed by their Legislative Assembly.

SEC. 19. The tenure of all officers, whose election is provided for in this schedule, on the first day of October, A. D., 1889, shall be as follows:

The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of county courts, shall hold their respective offices until the first Tuesday, after the first Monday, in January, A. D., 1892, at twelve o'clock M., and until their successors are elected and qualified.

The Judges of the Supreme court and circuit courts, shall hold their offices, until the first Tuesday, after the first Monday, in January, A. D., 1894, at twelve o'clock M., and until their successors are elected and qualified; subject to the provisions of Section 26, of Article V, of the Constitution.

The terms of office of the members of the legislature, elected at the first election held under the provisions of this Constitution, shall expire on the first Tuesday, after the first Monday, in January, one thousand and eight hundred and ninety-two (1892.)

SEC. 20. That the first general election under the provisions of this Constitution, shall be held on the first Tuesday, after the first Monday, in November, 1890, and every two years thereafter.

SEC. 21. The following form of ballot is adopted:

### CONSTITUTIONAL TICKET.

#### INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the Constitution, or for any of the articles submitted to a separate vote, may erase the word "No."

All persons who desire to vote against the Constitution, or any articles separately submitted, may erase the word "Yes."

For the Constitution. Yes. No.

For Prohibition. Yes. No.

For Minority Representation. Yes. No.

For . . . . . as the temporary seat of government.

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For Governor.

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For Lieutenant Governor.

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For Secretary of State.

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For Auditor.

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For Treasurer.

---

For Attorney General.

---

For Superintendent of Public Instruction.

---

For Commissioner of School and Public Lands.

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For Judges of the Supreme Court.

First district.....

Second district.....

Third district.....

For Judge of the Circuit Court..... circuit.

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For Representative in Congress.

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For State Senator.

---

For Representative in the Legislature.

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For County Judge.

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SEC. 22. This Constitution shall be engrossed, and after adoption and signing by the Convention shall be delivered to Hon. A. J. Edgerton, the President of the Constitutional Convention, for safe keeping, and by him to be delivered to the Secretary of State as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the State and all future editions thereof.

The President of this Convention shall also supervise the making of the copy that must be sent to the President of the United States; said copy is to be certified by the President and Chief Clerk of this Convention.

Committee

L. H. HOLE, Chairman.  
C. G. HARTLEY,  
C. R. WESTCOTT,  
A. B. MCFARLAND,  
H. F. FELLOWS,  
J. F. WOOD,  
C. BUECHLER,  
JOHN L. JOLLEY,  
L. T. BOUCHER,  
J. F. WHITLOCK,  
D. CORSON,  
P. COUCHMAN,  
S. S. PECK,  
H. W. EDDY,  
W. G. DICKINSON,  
SAMUEL A. RAMSEY,  
A. J. BERDAHL,  
WM. STODDARD,  
I. R. SPOONER,  
R. A. SMITH,  
JOHN SCOLLARD,  
WM. VANEPS.

On motion of Mr. VanBuskirk

The Convention adjourned to 2 o'clock P. M.

2 o'clock P. M.

The Convention met pursuant to adjournment—the President in the chair.

The President announced as the order consideration of the report of the Schedule and Ordinance Committee, and

Mr. Hole moved the adoption of the report section by section.

Carried.

On motion of Mr. Hole, chairman of Schedule Committee, Section 1 was adopted as read.

On motion of Mr. Hole, Section 2 was adopted as read.

In Section 3 Mr. VanBuskirk moved,  
To insert the word “therein” after the word “officer.”  
Motion carried, and Section 3 adopted as amended.

On motion of Mr. Hole, Section 4 was adopted as read.

When Section 5 was reached,  
Mr. Williams offered the following amendments:

That the report of Committee on “Schedule and Ordinance” be amended as follows, to-wit:

1. That said Section 5 be amended as follows:

After the word “State” in the fourth line of the seventh paragraph, insert the words “and county.”

Also that same Section be amended to read as follows:

At the end of paragraph eight of said Section add the words “and clerks of circuit court.”

The President called Mr. Stroupe to the chair.

The question on the amendment was called,

And the ayes and noes being taken resulted as follows:

Ayes—Messrs Atkinson, Boucher, Clough, Cook, Davies, Fowles, Goddard, Hall, Henninger, Huntley, Humphrey, Matson, McFarland, O'Brien, Peck, Sherwood, Smith, Spooner, Williams, Wood of Pennington, Zitka and Mr. President.—(22.)

Noes—Anderson, Berhahl, Buechler, Coats, Cooper, Corson, Couchman, Craig, Dickinson, Diefendorf, Downing, Eddy, Edger-

ton, of Yankton, Fellows, Gifford, Hartley, Hole, Houlton, Jolley, Kimball, Lee, Lyons, Ramsey, Ringsrud, Scollard, Stoddard, Sterling, Stroupe, Thompson, VanBuskirk, VanEps, VanTassel, Westcott, Wheeler, Whitlock, Willis, Williamson, Wood, of Spink, Young—(39.)

So the amendment was lost.

On motion of Mr. Hole,

Section 5 was adopted as reported.

On motion of Mr. Hole,

Section 6 was adopted as read.

On the submission of Section 7, Mr. Peck moved as follows:

That Section 7 of the report of the Committee on Schedule be amended by adding the following thereto and this to be considered paragraph by paragraph with the other portions of said Section.

RULES REGULATING THE ELECTION TO BE HELD UNDER THE  
AUTHORITY OF THE ENABLING ACT FOR THE ADOPTION OR  
REJECTION OF THE CONSTITUTION AND THE ARTICLES SEPARATELY  
SUBMITTED THEREWITH AND THE REPRESENTATIVES IN CONGRESS,  
ALSO STATE AND JUDICIAL OFFICERS  
FOR SOUTH DAKOTA.

SECTION 1. That at the election to be held on the first day of October, 1889, the election laws now in force in the Territory of Dakota shall apply to and govern such election except as hereinafter specially provided.

SEC. 2. Nominations for State officers, Representatives in Congress and Judges of the Supreme Court shall be made by any State convention and certified to by the Chairman and Secretary of such convention, according to form number one (1) hereinafter provided, or by any three hundred (300) legal voters in South Dakota attaching their names to a paper nominating candidates and filing the same with the Territorial Secretary.

SEC. 3. Nominations for members of the State Legislature, Judges of the circuit court and Judges of county courts, shall be made by any convention held in legislative and judicial districts or county for which any such officer is to be elected, and certified to by the chairman and secretary, according to form No. 2 hereinafter prescribed, or by any one hundred legal voters of any legislative or judicial district or county, by attaching their

names to a paper nominating such officers, and filing the same with the county clerk or county auditor to which such nominations refer.

SEC. 4. All certificates of nominations and nominating papers provided for in section two (2) shall be filed with the Territorial Secretary by the fifteenth day of September, and all those provided for in section three (3) shall be filed with the county clerk or county auditor by the twentieth day of September, 1889, and no certificate of nomination or nominating papers shall be acted upon, except accompanied with the consent in writing of the person or persons therein nominated, provided that in case of death or resignation, the authority making such nomination shall be permitted to fill such vacancy by a new nomination.

SEC. 5. The Territorial Secretary, on the receipt by him of the nominating papers hereinbefore mentioned, shall forthwith transmit true copies of the same to the county clerks or county auditors of the several counties in South Dakota.

SEC. 6. The county clerk or county auditor shall, after the expiration of the time for receiving the nominating papers, forthwith cause to be printed such a number of ballot papers as will be sufficient for the purpose of the election, and the number necessary for each polling place shall be bound or stitched in a book of convenient form, and the county clerk or county auditor shall cause to be printed in English, in large type, on cards, instructions for the guidance of voters in preparing their ballot paper; such clerk or auditor shall furnish ten (10) copies of such instructions to the judges of each election precinct, and said judges shall cause them to be posted both inside and outside of the polling place, and said county clerk or county auditor shall, as provided by law, cause to be delivered to the proper judges of election the ballot box and all poll books and returns now by law required or by this ordinance required to conduct and complete the election, also the ballot papers, at least two (2) days before polling the vote; and shall cause to be published in each newspaper in the county a true copy of the ballot paper and card of instructions, said publication to be in the last issue of said papers before the day of voting.

SEC. 7. Every ballot paper shall contain the names of all candidates for representatives in Congress, State, and judicial officers, and members of the Legislature, and the name of the political party to which each candidate belongs; also the form of the ballot for the adoption or rejection of the Constitution and the



articles separately submitted therewith, as provided in this ordinance.

SEC. 8. Each polling place shall be furnished with a sufficient number of compartments, in which the voter, screened from observation, shall mark his ballot paper, and a guard rail so constructed that only persons within such rail can approach within ten (10) feet of the ballot box, and it shall be the duty of judges of election in each polling place to see that a sufficient number of such places be provided and shall appoint a person to guard the entrance to such compartments and he shall be paid the same as judges of election.

SEC. 9. The voters being admitted one at a time for each compartment where the poll is held shall declare his name, and when permitted by the judges to vote his name shall be entered on the voters' list, and he shall receive from one of the judges of election a ballot paper on the back of which the initials of one of the judges of election shall be so placed that when the ballot paper is folded they can be seen without opening it, and the judges of election shall instruct him how to mark his ballot paper.

SEC. 10. The voter, on receiving his ballot paper, shall forthwith proceed to one of the compartments of the polling station and there without undue delay, not exceeding five minutes, mark his ballot paper by putting a cross (x) in the space to the right-hand side of the name of the person for whom he desires to vote and if he desires to vote for any person whose name is not on his ballot paper he may write or paste on his ballot paper the name of the person for whom he desires to vote, and shall then fold up his ballot paper so that the initials on the back can be seen without opening, and hand it to one of the judges who shall, without opening it, ascertain that the initials are on it and that it is the same ballot paper given to the voter, and shall then place it in the ballot box and the voter shall quit the polling compartment as soon as his ballot paper has been put in the ballot box.

SEC. 11. The judges of election, on the application of any voter who is unable to vote in the manner provided, shall assist such voter by marking his ballot paper in the manner desired by such voter in the presence of the persons permitted to be in the compartment occupied by the judges and no others, and shall place such ballot paper in the ballot box, and when the judges of election shall not understand the language spoken by the voter claiming to vote, they shall swear an interpreter, who shall be

the means of communication between them and the voter with reference to all matters required to enable such voter to vote.

SEC. 12. A voter who has inadvertently dealt with the ballot paper given him in such manner that it cannot be conveniently used, may, on delivering the same to the judges, obtain another ballot paper in place of that so delivered up.

SEC. 13. Any voter refusing to take the oath or affirmation of qualification as required by law, when requested so to do, shall not receive a ballot paper, or be permitted to vote.

SEC. 14. No person shall be allowed to take his ballot paper out of the polling place, nor, except as in the case provided for by Section Eleven (11), to show it when marked to any person so as to allow the name of the candidate for whom he has voted to be known, and any voter who violates or refuses to comply with this ordinance shall not be permitted to vote.

SEC. 15. In addition to the judges and clerks of election, one watcher at each polling precinct for each political party presenting a candidate or candidates for the suffrage of the voters and no others shall be permitted to be in the compartment occupied by the judges on election day, and such judges, clerks and watcher shall, before entering upon their respective duties take and subscribe to the following oath or affirmation: I, John Jones, do solemnly swear (or affirm) that I will keep secret the names of the candidates for whom any voter may have marked his ballot paper in my presence at this election, so help me God. Signed J. J.

Sworn or (affirmed) before me at——this first day of October, 1889.

Justice of the peace or judge of election.

SEC. 16. Immediately on the close of the poll the judges in the presence of the clerks of election and such of the watchers and voters as desire to be present, shall open the ballot box and proceed to count the number of votes for each candidate; in doing so, they shall reject all ballot papers which have not been supplied by them as judges of said election, all ballots by which more candidates have been voted for than there are officers to be elected; also those upon which there is any writing or mark by which the voter can be identified; all the ballots voted and counted, and those rejected, those spoiled and those unused, shall be put into separate envelopes, and all these parcels shall be endorsed so as to indicate their contents, and be placed in the ballot box and a return of the result of the election at the polling precinct shall be made to the county clerk or county auditor, as now

required by law for the election of members of the Territorial Legislature.

SEC. 17. All expenses incurred under these rules to be a charge against the county and audited and paid as other claims against the county.

Mr. Scollard moved

To lay the amendment on the table.

The ayes and noes being called, the vote resulted as follows:

Ayes—Messrs. Buechler, Scollard—(2).

Noes—Anderson, Atkinson, Berdahl, Boucher, Clough, Coats, Cook, Corson, Couchman, Craig, Davies, Dickinson, Diefendorf, Downing, Eddy, Edgerton of Yankton, Fellows, Fowles, Gifford, Goddard, Hall, Hartley, Henninger, Hole, Houlton, Huntley, Humphrey, Jolley, Kimball, Lee, Lyons, Matson, McFarland, O'Brien, Peck, Ramsey, Ringsrud, Sherwood, Smith, Spooner, Stoddard, Sterling, Stroupe, Thompson, VanBuskirk, VanEps, VanTassel, Westcott, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Spink, Young, Zitka, and Mr. President—(57.)

On motion of Mr. Willis,

It was ordered that when the Convention adjourns it be to meet at 8 P. M.

On motion of Mr. Williams,

The Convention adjourned.

8 o'clock P. M.

The President called Mr. Jolley to the chair, and

Discussion upon amendment to Schedule Committee continued.

Vote being taken on the amendment offered by Mr. Peck the result was:

Ayes—Messrs. Anderson, Atkinson, Berdahl, Clough, Davies, Dickinson, Downing, Eddy, Gifford, Goddard, Hall, Hartley, Huntley, Lee, Matson, Murphy, Peck, Ramsey, Spooner, Sterling, Westcott, Wheeler, Willis, Williams, Williamson, Wood of Spink, Young—(27).

Noes—Messrs. Boucher, Buechler, Coats, Cook, Cooper, Corson, Couchman, Craig, Diefendorf, Edgerton of Yankton, Fellows, Fowles, Henninger, Hole, Houlton, Humphrey, Jolley, Kimball, Lyons, McFarland, O'Brien, Ringsrud, Scollard, Sherwood, Stoddard, Smith, Stroupe, Thompson, VanBuskirk, VanEps, VanTassel, Whitlock, Zitka, Mr. President—(34).

So the amendment was lost.



Moved by Mr. Williams

To amend Section 7 to strike out the word "except" and insert the words "and Rules."

Motion lost.

Mr. Humphrey moved

To strike out the word "avoid" in said Section 7 and substitute therefor the word "annul."

Motion lost.

Vote being taken on Section 7, as reported by the committee, it was adopted.

Mr. Sterling moved

To postpone further consideration of the report till next Thursday.

Mr. Hole moved as an amendment

That the remainder of the report of the Schedule Committee be adopted.

Mr. Williams offered

The following amendment to the amendment to amend Section 19 and moved its adoption.

Amend Section 19 so as to read as follows:

SEC. 19. The officers provided for in this ordinance, to be elected October 1, A. D. 1889, shall continue to hold and exercise the duties of their respective offices, until their respective successors are elected and qualified under and by virtue of this Constitution and laws passed in pursuance thereto.

Motion lost.

Mr. Humphrey moved as an amendment to the amendment to strike out all in Section 19 after the words "shall be" in the third line and insert the following words: "shall be as provided in the Constitution."

Motion lost. Ayes 20; noes 30.

Mr. Edgerton of Davison raised the point of order that the motion of Mr. Hole was not an amendment to the motion to postpone and was therefore not in order.

The Chair decided the point of order well taken.

Vote being taken upon Mr. Sterling's motion to postpone till next Thursday.

Motion carried. Ayes 33; noes 21.

On motion of Mr. Lee

Convention adjourned.



## TWENTY-FOURTH DAY.

SIOUX FALLS, Dakota, July 27, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson.

Prayer by Rev. Willis.

The clerk read the following communication from President Edgerton:

SIOUX FALLS, Dakota, July 26, 1889.

JUDGE CORSON:

Will you please preside over the convention during my absence.

Yours Truly,  
A. J. EDGERTON.

Journal read and approved.

Moved by Mr. Wheeler

That we now adjourn.

Carried.

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TWENTY-SIXTH DAY.

SIOUX FALLS, Dakota, July 29, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson.

Moved by Mr. Young to adjourn.

Carried.

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TWENTY-SEVENTH DAY.

SIOUX FALLS, Dakota, July 30, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson.

Moved by Mr. Davies to adjourn.

Carried.

TWENTY-EIGHTH DAY.

SIoux FALLS, July 31, 1889.

2 o'clock P. M.

Convention called to order by the President.

Prayer by Rev. Willis.

Journal read and approved.

Communication from Commander of the G. A. R., inclosing copy of resolution of G. A. R. Posts of Chicago, relating to name of State.

Received and referred to Committee on Name, Boundaries and Seat of Government.

Committee on Arrangement and Phraseology submitted the following report:

SIoux FALLS, July 31, 1889.

MR. PRESIDENT:

Your Committee on Arrangement and Phraseology to whom was referred the Preamble to the Constitution having had the same under careful consideration, beg leave to submit the following report in relation thereto, in which report there are no changes except that the word "South" is inserted before the word "Dakota" in the first line and the word "South" before the word "Dakota" in the last line of said Preamble and that such changes are in conformity with the Constitution and Omnibus Enabling Act, and herewith report the Preamble with said changes incorporated therein and respectfully recommend the adoption of the changes and the re-submission of the Preamble as amended.

PREAMBLE.

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquillity, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the bless-

ings of liberty, do ordain and establish this Constitution for the State of South Dakota.

D. CORSON,  
Chairman of Committee.

On motion of Mr. VanBuskirk,  
The report was adopted.

The Committee on Arrangement and Phraseology submitted the following report:

SIOUX FALLS, July 31, 1889.

MR. PRESIDENT:

Your Committee on Arrangement and Phraseology to whom was referred Article II of the Constitution, having had the same under careful consideration, beg leave to submit the following report relative thereto, and in which report there are no changes of the Constitution, and that said article is in conformity to the provisions of the Enabling act; and respectfully recommend the adoption of the report and the resubmission of the article.

## ARTICLE II.

### DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the State are divided into three distinct departments—the legislative, executive and judicial—and the powers and duties of each are prescribed by this Constitution.

D. CORSON,  
Chairman Committee.

On motion of Mr. VanBuskirk,  
The report was adopted.

Mr. Parker asked consent to attach his name to report of the Committee on Schedule, he not being present when report was presented.

Consent granted.

On motion of Mr. Willis,  
The Convention adjourned.

## TWENTY-NINTH DAY.

SIOUX FALLS, Aug. 1, 1889.

2 o'clock P. M.

Prayer by Rev. Burdick.

Journal read and approved.

Mr. Davies moved

That the President appoint a committee of five to secure the publication of the Constitution and Schedule as ordered by the Convention.

Motion carried.

Communication from John J. Cushing, relative to artesian wells,

Received and referred to the Committee on Judiciary.

A communication from J. M. Simmons, relating to name,  
Was received and referred to Committee on Name, Boundary and Seat of Government.

On motion of Mr. Jolley,

The Convention took a recess until 8 P. M.

8 o'clock P. M.

The Convention was called to order by the President.

Mr. Edgerton of Yankton offered

The following resolution and moved its adoption.

WHEREAS, Hon. Benjamin Harrison for years has been the earnest friend of Dakota and the advocate of Home Rule in America as well as abroad, and

WHEREAS, He has contributed largely to the division of Dakota and the early admission of four great Territories into the Union of States, therefore, be it

*Resolved* by the delegates of South Dakota in Constitutional Convention assembled, that the thanks of all sincere and patriotic friends of republican government, and especially those residing in the territories, are due to him for the consistent and unwavering stand he has maintained in favor of those principles for the admission of new states taught by the founders of the republic.

*Resolved*, That a copy of these resolutions be transmitted



by our presiding officer to the Hon. Benjamin Harrison, President of the United States.

Resolution adopted.

On motion of Mr. Westcott,

It was ordered that when the Convention adjourns it do so to meet at 9 o'clock A. M. to-morrow.

The President announced

The following as the Committee on Printing the Constitution, as ordered at afternoon session, viz:

Mr. Davies of Edmunds, Mr. Stroupe of Brown, Mr. Zitka of BonHomme, Mr. Edgerton of Yankton, Mr. Ringsrud of Union.

#### SPECIAL ORDER.

Consideration of the report of the Schedule and Ordinance Committee:

On motion of Mr. Hole,

Sections 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 were adopted as reported.

The following communication was read:

HEADQUARTERS DEPARTMENT OF DAKOTA, }  
ST. PAUL, MINN., July 25th, 1889. }

*To the Presiding Officer of the Constitutional Convention of South Dakota:*

SIR: I have the honor, in accordance with instructions received from the War Department, to request, that consideration of the Convention be invited to the proposition, that a clause be inserted in the Constitution of the State of South Dakota, by which jurisdiction shall be reserved to the United States, as provided in Section 8 of Article I of the Constitution, over the Military Reservations of Forts Meade, Randall and Sully, heretofore declared by the President.

Very Respectfully,

Your obedient servant,

THOS. H. RUGER,

Brigadier General,

Commanding.

On motion of Mr. Corson,

Section 18 was amended by adding after subdivision fourth, the following subdivision:

Fifth: That Jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall, and Fort

Sully, heretofore declared by the President of the United States; provided legal process, civil and criminal, of this State shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

On motion of Mr. Hole,  
Section 18 was adopted as amended.

Moved by Mr. Hole,  
To adopt Section 19.

Mr. Williams offered the following amendment:

Amend Section 19 of the report of the Committee on Schedule and Ordinance, by striking out the dates 1892 and 1894 where they occur in said section, and inserting in lieu thereof the date 1891.

On motion of Mr. Price,  
Further consideration of the amendment was postponed until tomorrow morning.

By consent, consideration of Section 20 was also postponed until same time.

On motion of Mr. Hole,  
Sections 21 and 22 were adopted.

Mr. Kellam presented the report of the Joint Commission as follows:

WHEREAS, By an Act of Congress approved February 22, 1889, entitled, "An act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State governments and to be admitted into the Union on an equal footing with the original States and to make donation of public lands to such States." It was among other things provided that when the Constitutional Convention of North Dakota and the Constitutional Convention of South Dakota, which by said Act were duly provided for and authorized, should assemble and organize as in said Act provided, it should be and become the duty of said Conventions respectively to appoint a Joint Commission to be composed of not less than three members of each Convention, whose duty it should be to assemble at Bismarck, the present seat of government of said Territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also, adjust and agree upon the amount of the debts and liabilities of the Territory, which shall be assumed and paid by each of the proposed States of North Dakota and South Dakota. And,

WHEREAS, The said Constitutional Conventions of North Dakota and South Dakota having been duly elected and assembled and organized in pursuance of and as provided in said Act, did, as therein required and provided and for the purposes therein specified, appoint a Joint Commission consisting of not less than three members of each Convention, to-wit: Seven members of each Convention, as follows, to-wit:

E. W. Camp, B. F. Spalding, Alex. Griggs, Andrew Sandager, W. E. Purcell, Harvey Harris and J. W. Scott,

Appointed by the Convention of North Dakota, and

A. G. Kellam, V. T. McGillicuddy, Henry Neill, E. W. Caldwell, William Elliott, Charles H. Price and S. F. Brott,

Appointed by the Convention of South Dakota. And,

WHEREAS, The said Joint Commission so appointed and composed, having duly assembled at Bismarck, as by said Act provided, and being now and here so assembled, and having as such Joint Commission duly and carefully considered the several matters which by said Act are referred to them for disposition and Agreement, do now adopt and confirm the following Agreement, compact and convention, that is to say:

#### I.

This Agreement shall take effect and be in force from and after the admission into the Union as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

#### II.

The words, "State of North Dakota," wherever used in this Agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words, "State of South Dakota," wherever used in this Agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

#### III.

Upon the taking effect of this Agreement all the right, title, claim and interest of the Territory of Dakota in and to any public institutions, grounds or buildings situate within the limits of the proposed State of North Dakota, as such limits are defined in said Act of Congress, shall vest in said State of North Dakota.

ta; and said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings, and shall pay all warrants issued under and by virtue of that certain Act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled, "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

## IV.

Upon the taking effect of this Agreement, all right, title, claim and interest of the Territory of Dakota in and to any public institutions, grounds or buildings situate within the limits of the proposed State of South Dakota, as defined in said Act of Congress, shall vest in said State of South Dakota. And said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings.

## V.

That is to say:

The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is.....	\$ 266,000 00
Bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is.....	96,700 00
Bonds issued on account of the Penitentiary at Bismarck, the face aggregate of which is.....	93,600 00
Refunding Capitol Building Warrants, dated April April 1, 1889.....	83,507 46

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is.....	\$ 210,000 00
Bonds issued on account of the School for Deaf Mutes at Sioux Falls, South Dakota, the face aggregate of which is.....	51,000 00
Bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is.....	75,000 00



Bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is.....	94,300 00
Bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is.....	97,500 00
Bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is.....	49,400 00
Bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is.....	33,000 00
Bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is.....	30,000 00
Bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is.....	25,000 00
Bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is .....	45,000 00

## VI.

Each State shall receive all unexpended balances of the proceeds of the bonds which it so assumes, whether such balances have been covered back into the treasury or not.

## VII.

All furniture, fixtures, provisions, appurtenances and appliances, tools, implements and other movable property of the Territory of Dakota, situate in or used in connection with any of said public institutions, grounds or buildings, shall become and be the property of the State or Territory in which such grounds, buildings or institution may be situated, except as herein otherwise specifically provided.

## VIII.

In case of loss in whole or part of any of the property of the Territory of Dakota prior to the taking effect of this agreement, the State in which such property would have vested if the same had not been destroyed, or in which such property so injured shall vest, shall receive any sums payable upon policies of insurance issued upon such property; and if loss not covered by insurance occurs on any of such property, such loss shall be

borne by the State in which it is hereby agreed that such property would vest on the taking effect of this agreement.

## IX.

Upon the taking effect of this Agreement all unearned premiums of insurance shall vest in the State or Territory in which the property insured thereby shall vest.

## X.

The States of North Dakota and South Dakota shall pay one-half each of all liability now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or public buildings, except as otherwise herein specifically provided.

## XI.

Each of said States shall succeed to all rights of the Territory of Dakota upon contracts for public works within such State or upon bonds given to secure the performance of such contracts.

## XII.

All other bonds issued prior to the taking effect of this agreement upon which a cause of action has or shall prior to the taking effect of this agreement accrue to the Territory of Dakota shall be sued upon by the State of North Dakota, and it is hereby made the duty of said State to sue thereon, and one-half of the penalties or damage collected by said State thereon shall be paid over to the other State, and the costs of such suit or collection shall be borne equally by said States, save as it may be necessary to apply such proceeds otherwise in order to carry into effect the provisions of Article XXI of this Agreement.

## XIII.

The furniture, fixtures, appliances and appurtenances used in and about or pertaining to the public offices of the Territory shall be the property of the State within the proposed limits of which said offices are now kept.

## XIV.

The Territorial Library, including such books and volumes as may be added thereto prior to the taking effect of this agreement, shall be the property of the State of South Dakota.

## XV.

One-half of all the copies of the Compiled Laws of the Territory of Dakota, Revised Codes and of all Session Laws, printed Journals of the House and Council of the Legislative Assembly of said Territory, and of other printed reports of officers of the Territory (except those composing a part of said library), remaining undistributed or undisposed of according to law at the taking effect of this agreement, shall be delivered on demand to the proper authorities of the State of South Dakota.

## XVI.

All arms, ammunition, quartermaster's and ordnance stores distributed to and now in possession of militia companies of the Territory of Dakota shall remain in their possession, and all the right, title and interest of the Territory of Dakota in and to such arms, ammunition and stores shall vest in the State in which the armories or headquarters of such companies shall be situated. All 45-calibre rifles and ammunition of same calibre stored in Capitol at Bismarck and all 45-calibre rifles heretofore issued to Company F, First Regiment, at Bismarck, shall be the property of North Dakota.

## XVII.

All other arms, ammunition, quartermaster's and ordnance stores shall be equally divided between the States of South Dakota and North Dakota.

## XVIII.

All other items of personal property and miscellaneous effects belonging to the Territory, except the territorial library, and the territorial records and archives, shall be divided as nearly equally as possible between North and South Dakota.

## XIX.

The State of South Dakota shall pay to the State of North Dakota Forty-six Thousand Five Hundred Dollars, on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this Agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to, nor

shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such Territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the Territory situate or located within the boundaries of the other State.

## XX.

Neither State shall pay any portion of liability of the Territory arising out of erroneous taxation of property situated in the other State.

## XXI.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each State shall be charged with one-half of all other expenses of the Territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this Agreement, by any county, municipality or person within the limits of the proposed State of North Dakota shall be credited to North Dakota; and all such sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March, 1889, based upon the earnings of years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sums going to the Territory), shall be equally divided between the States of North Dakota and South Dakota. And all taxes heretofore or hereafter paid into the said treasury under and by virtue of the Act last mentioned, based on gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial treasury shall be divided as follows: North Dakota shall



have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each State shall be credited, also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota, for the account of the public institutions, grounds or buildings located within its limits remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this Article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amount received from counties, municipalities, railroad corporations or persons within its limits, over and above the amount charged to it.

#### XXII.

The payment from South Dakota to North Dakota shall be made by South Dakota's assuming North Dakota's share of current liabilities at the time of final adjustment, to the extent of South Dakota's indebtedness under this Agreement, to North Dakota; and if any balance shall remain due to North Dakota from South Dakota, payment of said balance shall be provided for by the first Legislature of South Dakota.

#### XXIII.

Upon the taking effect of this Agreement all claims for taxes due the Territory of Dakota shall become the property of and may be collected by the State or Territory within the limits whereof the counties are situate against which such taxes stand charged upon the Territorial Treasurer's books.

But this article shall not be held to refer to or govern the disposal of any taxes to be paid by railroad corporations which are specifically provided for by Article XXI thereof,

#### XXIV.

All other claims and demands of the Territory of Dakota outstanding when this Agreement shall take effect, the collection whereof is not hereinbefore provided for, shall be sued upon and collected by the State of South Dakota, and the costs of suits so

brought and the amounts collected shall be divided equally between the two States of North Dakota and South Dakota.

And said Commission so assembled and acting under and by virtue of the authority upon it by said Act of Congress conferred, further agrees as follows:

I.

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit:

All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic Corporations, Returns of Election of Delegates to the Constitutional Convention of 1889 for South Dakota, Returns of Elections held under the so-called Local Option Law in counties within the limits of South Dakota, Bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are a part of the records and archives of said Secretary's office; excepting also Census Returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are part of the records and archives of said Governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or in the custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota; one Warrant Register in the office of the Treasurer of this Territory—being a record of warrants issued under and by virtue of Chapter Twenty-four of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota; paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay: reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota; records and papers of the office of the Public Examiner of the Second District of the Territory; records and papers of the office of the Second District Board of Agriculture; records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by the said States of North Dakota and South Dakota, that is to say:

Appropriation Ledger for years ending November 1889, and 1890—one volume;

The Current Warrant Auditor's Register—one volume;

Insurance Record for 1889—one volume;

Treasurer's Cash Book—"D";

Assessment Ledger—"B";

Dakota Territory Bond Register—one volume;

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts or such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two States.

## II.

And this Commission further agrees that the two commissions composing the same shall recommend to their respective Conventions for adoption as a part of the Schedule of the proposed Constitution for the State of North Dakota and the State of South Dakota respectively, the following, that is to say:

"The Agreement made by the Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books, and archives of the Territory of Dakota

is hereby ratified and confirmed, which Agreement is in the words following: that is to say;" (and then shall follow the words of the article last above written.)

In testimony and confirmation whereof, the said Joint Commission now assembled and acting as such, has caused this Agreement to be signed and executed by and on its behalf and as its act and deed, and witnessed by the names hereto by each subscribed of the members comprising said Joint Commission as hereinbefore recited.

Done at Bismarck, Dakota, this 31st day of July, A. D. 1889.

A. G. KELLAM,  
V. T. MCGILLICUDDY,  
HENRY NEIL,  
E. W. CALDWELL,  
W. ELLIOTT,  
CHARLES H. PRICE,  
S. F. BROTT,  
E. W. CAMP,  
BURLEIGH F. SPALDING,  
ALEX. GRIGGS,  
ANDREW SANDAGER,  
W. E. PURCELL,  
HARVEY HARRIS,  
JOHN W. SCOTT.

On motion of Mr. Caldwell, consideration of said report was postponed until tomorrow morning.

On motion of Mr. Peck

The Convention adjourned.

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### THIRTIETH DAY.

SIoux FALLS, Dakota, Aug. 2, 1889.

9 o'clock A. M.

Convention called to order by the President.

Prayer was offered by the Chaplain.

Reading of Journal, on motion of Mr. Spooner, was dispensed with.

An invitation from the Burlington, Cedar Rapids and Northern R'y, to visit Spirit Lake, received and on motion accepted for Saturday, Aug. 3.



The President called attention to the fact that a Committee from the United States Senate was in the city, and on motion, the Committee was invited to visit the Convention this afternoon.

On motion of Mr. Spooner,

The President was requested to appoint a committee to confer with the Senatorial Committee.

The President named the following members as said conference committee:

Dr. McGillicuddy of Pennington.

Mr. Peck of Hamlin.

Dr. Spooner of Kingsbury.

Mr. Couchman of Walworth.

Mr. Hall of Sully.

Mr. Houlton of Douglass.

Mr. Eddy of Miner.

Mr. Murphy of Hanson.

Mr. Wood of Spink.

Mr. Cook of Marshall.

Mr. Westcott of Deuel.

The President announced the receipt of a letter from the Secretary of the President of the United States, acknowledging the receipt of the memorial relative to school lands.

On motion of Mr. Jolley,

The following resolution was adopted:

*Resolved*, That the President of the Convention have the custody of the debates until the Legislature shall order and provide for their publication, and then he, with Hon. A. G. Kellam and Hon. H. F. Fellows, shall prepare the same for publication and cause the same to be published.

#### SPECIAL ORDERS.

Report of Committee on Schedule was taken up.

By consent the amendment offered by Mr. Williams was divided and that part pertaining to 1892 first considered.

Mr. Williams withdraws so much of his motion as refers to 1894.

Vote being taken upon the amendment of Mr. Williams, resulted as follows:

Ayes—Messrs. Atkinson, Boucher, Caldwell, Cook, Davies, Downing, Edgerton of Yankton, Fowles, Goddard, Hall, Harris, Hartley, Huntley, Kimball, Lee, McFarland, McGillicuddy, Murphy, Peck, Price, Ramsey, Ringsrud, Sherwood, Smith, Sterling, Thompson, VanBuskirk, Westcott, Wheeler, Whit-

lock, Willis, Williams, Williamson, Wood of Pennington, Wood of Spink, Young—36.

Noes—Messrs. Anderson, Berdahl, Brott, Buechler, Clough Coats, Cooper, Corson, Couchman, Craig, Culver, Dickinson, Diefendorf, Eddy, Elliott, Fellows, Gifford, Heninger, Hole, Houlton, Humphrey, Jeffries, Jolley, Kellam, Lyons, Matson, Neill, O'Brien, Parker, Scollard, Spooner, Stoddard, Stroupe, VanTassel, Zitka, Mr. President—36.

So the amendment was lost.

Section 19 was adopted as reported by the Committee.

On motion of Mr. Jolley,

Further consideration of the report of the Committee was postponed and the report of the Joint Commission now considered.

Mr. Harris offered the following motion:

That this Convention do now incorporate in the Constitution the Agreement of the Joint Commissions of North Dakota and South Dakota, commencing with the preamble and ending with the close of Article XXIV.

Mr. Clough moved

That a recess be taken till 2 o'clock P. M. and that the Joint Commission be instructed to complete their report at that time.

Motion carried.

2 o'clock P. M.

Convention called to order by the President.

Mr. VanBuskirk called to the chair.

Mr. Edgerton of Davison moved

To reconsider the vote by which Section 19 was adopted.

The vote was as follows:

Ayes—Messrs. Anderson, Atkinson, Berdahl, Buechler, Caldwell, Clough, Coats, Cook, Culver, Davies, Downing, Edgerton of Yankton, Fowles, Goddard, Hall, Harris, Hartley, Houlton, Huntley, Lee, Matson, McFarland, Murphy, Neill, Peck, Price, Ramsey, Ringsrud, Sherwood, Smith, Sterling, Thompson, VanBuskirk, Westcott, Wheeler, Whitlock, Willis, Williamson, Wood of Pennington, Wood of Spink, Young and Mr. President—(42.)

Noes—Messrs. Cooper, Dickinson, Elliott, Fellows, Gifford, Heninger, Hole, Humphrey, Jeffries, Jolly, Kimball, Lyons, O'Brien, Parker, Scollard, Spooner, VanTassel, Zitka—(18).

So the motion to reconsider was carried.

On motion of Mr. Wood of Pennington the motion by which the amendment of Section 19 was lost was reconsidered.

At this point a Commission of the United States Senate was introduced and a recess until 7:30 was taken to confer with them on the subject of irrigation.

7:30 P. M.

Convention called to order by the President.

Consideration of Section 19 of report of Schedule Committee resumed.

President called Mr. Dickinson to the chair.

The question being upon the adoption of the amendment of Mr. Williams the vote stood as follows:

Ayes—Messrs. Atkinson, Berdahl, Boucher, Caldwell, Cook, Davies, Downing, Edgerton, of Yankton, Fowles, Goddard, Hall, Harris, Hartley, Houlton, Huntley, Lee, McFarland, McGillicuddy, Murphy, Neill, Peck, Price, Ramsey, Ringsrud, Sherwood, Smith, Sterling, Thompson, VanBuskirk, VanEps, Westcott, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Pennington, Wood of Spink, Young, Kimball—40.

Noes—Messrs. Anderson, Brott, Buechler, Cook, Cooper, Corson, Couchman, Craig, Culver, Dickinson, Diefendorf, Eddy, Elliott, Fellows, Gifford, Heninger, Hole, Humphrey, Jeffries, Jolley, Kellam, Lyons, Matson, O'Brien, Parker, Scollard, Spooner, Stoddard, Stroupe, VanTassel, Zitka and Mr. President.—32.

So the amendment was carried.

Section 19 as amended was adopted.

Mr. Wood of Pennington moved to reconsider the vote just taken whereby Section 19 was adopted and also that the motion to reconsider be laid on the table.

Carried.

Mr. Kellam presented further report as follows:

MR. PRESIDENT:

The Committee named by this Convention to form a part of the Joint Commission as provided by the Act of Congress under which this Convention is assembled ask leave to submit the following report:

First; The agreement reached, made and executed by said Joint Commission intended to cover the matters which by said Act of Congress were referred to them for disposition and agreement.

The agreement is hereto attached, marked "A."

Second; The recommendation of said Committee of an

Article to be incorporated into the Constitution to be submitted respecting Territorial debts and liabilities as provided in said Act of Congress hereto attached, marked "B."

Your Committee also recommend the adoption as an article of the schedule of the Constitution, the agreement of said Joint Commission concerning the records, books and archives of the Territory, the same to be preceded by the following words, to-wit:

"The agreement made by this Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books and archives of the Territory of Dakota is hereby ratified and confirmed, which is in the words following those to say."

All of which is respectfully submitted.

A. G. KELLAM,

Chairman.

And moved that that part of the report marked "A" be referred to the Committee on State and Municipal Indebtedness, and

The part marked "B" be referred to the Schedule Committee.

So referred.

Mr. Brott asked leave of absence and that Mr. Stoddard be permitted to attach his (Brott's) signature to the Constitution. Permission granted.

On motion of Mr. Jolley,

Convention adjourned to meet at 9 A. M. tomorrow.

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### THIRTY-FIRST DAY.

SIoux FALLS, Dakota, Aug. 3, 1889.

9 o'clock A. M.

Convention called to order by the President.

Prayer was offered by Chaplain.

On motion of Mr. Sterling,

The reading of the Journal was dispensed with.

Committee on State, County and Municipal Indebtedness submitted the following report:

SIoux FALLS, Dakota, August 2, 1889.

MR. PRESIDENT:

Your Committee on State, County and Municipal Indebted-



ness, to whom was referred Article XIII entitled "Public Indebtedness" have considered the same and have compared said Article XIII with the Sioux Falls Constitution, and the Act of Congress known as the "Omnibus Bill," and have instructed me to report the following as Article XIII of the Constitution and that the same is in accordance with the Sioux Falls Constitution and the changes thereto authorized by the "Omnibus Bill."

### ARTICLE XIII.

#### PUBLIC INDEBTEDNESS.

SECTION 1. Neither the State nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual, association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation nor pay or become responsible for the debt or liability of any individual, association or corporation; provided, that the state may assume or pay such debt or liability when incurred in time of war for the defense of the State. Nor shall the State engage in any work of internal improvement.

SEC. 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts never to exceed, with previous debts, in the aggregate, \$500,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the State or the United States in war; and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid.

SEC. 3. That the indebtedness of South Dakota limited by Section 2 of this Article shall be in addition to the debt of the Territory of Dakota, assumed by and agreed to be paid by South Dakota.

SEC. 4. The debt of any county, city, town, school district or other subdivision, shall never exceed five per centum upon the assessed value of the taxable property therein.

In estimating the amount of indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

SEC. 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of

so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

#### TERRITORIAL DEBTS AND LIABILITIES.

SECTION 6. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an Act of Congress, approved February 22, 1889, entitled "An Act to provide for the Division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State governments and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States," the States of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said Act, the sessions whereof were held at Bismarck, in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

1. This Agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota," wherever used in this Agreement, shall be taken to mean the Territory of North Dakota, in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this Agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings, as are located within the boundaries of North Dakota, and shall pay all warrants issued by virtue of and under that certain Act of the Legislative Assem-

bly of the Territory of Dakota, approved March 8, 1889, entitled, "An Act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs, maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is Two Hundred and Sixty-Six Thousand Dollars; also Bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is Ninety-Six Thousand Seven Hundred Dollars; also Bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is Ninety-three Thousand Six Hundred Dollars; also Refunding Capitol Building Warrants, dated April 1, 1889, Eighty-three Thousand Five Hundred and Seven Dollars and Forty-Six cents.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is Two Hundred and Ten Thousand Dollars; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is Fifty-one Thousand Dollars; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is Seventy-five Thousand Dollars; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is Ninety-four Thousand Three Hundred Dollars; also, bonds issued on account of the Agricultural College, at Brookings, South Dakota, the face aggregate of which is Ninety-seven Thousand Five Hundred Dollars; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is Forty-nine Thousand Four Hundred Dollars; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is Thirty-three Thousand Dollars; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is Thirty Thousand Dollars; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggre-



gate of which is Twenty-five Thousand Dollars; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is Forty-five Thousand Dollars.

6. The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota Forty-six Thousand Five Hundred Dollars, on account of the excess of Territorial appropriations for the permanent improvement of Territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the Territorial Library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such Territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the Territory situated or located within the boundaries of the other State.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each State shall be charged with one-half of all other expenses of the Territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this Agreement, by any county, municipality or person within the limits of the proposed State of North Dakota shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person



within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March, 1889, based upon the earnings of years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sum going to the Territory), shall be equally divided between the States of North Dakota and South Dakota. And all taxes heretofore or hereafter paid into the said treasury under and by virtue of the Act last mentioned, based on gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each State shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this Article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

In witness whereof, the members of said Joint Commission have subscribed their names hereto, this 31st day of July, A. D. 1889, at Bismarck, Dakota.

E. W. CAMP,  
BURLEIGH F. SPALDING,  
ALEX. GRIGGS.  
ANDREW SANDAGER,  
W. E. PURCELL,  
HARVEY HARRIS,  
JOHN W. SCOTT.

A. G. KELLAM,  
V. T. MCGILLYCUDDY,  
HENRY NEILL,  
E. W. CALDWELL,  
W. ELLIOTT,  
CHARLES H. PRICE.  
S. F. BROTT,

SEC. 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing Agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

C. G. SHERWOOD, Chairman.  
E. E. CLOUGH.  
M. P. STROUPE,  
T. F. DIEFENDORF,  
I. R. SPOONER.  
JOHN L. JOLLEY.  
SAMUEL A. RAMSEY.  
T. W. P. LEE.

Committee on Schedule submitted the following report:  
SIOUX FALLS, S. D., Aug. 3, 1889.

MR. PRESIDENT:

Your Committee on Schedule and Ordinance, to whom was referred that part of the report of the "Joint Commission" relating to the disposition of the books, records and archives of the Territory of Dakota, having had the same under consideration, beg leave to report the following hereto attached and we recommend that it be adopted as part of the Schedule and Ordinance, and numbered Section 23.

"The Agreement made by the Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books, and archives of the Territory of Dakota is hereby ratified and confirmed, which Agreement is in the words following, that is to say;"

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit:

All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic Corporations, Returns of Election of Delegates to the Constitutional Convention of 1889 for South Dakota, Returns of Elections held under the so-called Local Option law in counties within the limits of South Dakota, Bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are a part of the records and archives of said Secretary's office; excepting also Census Returns from counties situate within the limits of South Dakota and papers relating to

requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are part of the records and archives of said Governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or in the custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota; one Warrant Register in the office of the Treasurer of this Territory—being a record of warrants issued under and by virtue of Chapter Twenty-four of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota; paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota; records and papers of the office of the Public Examiner of the Second District of the Territory; records and papers of the office of the Second District Board of Agriculture; records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by the said States of North Dakota and South Dakota, that is to say:

Appropriation Ledger for years ending November 1889, and 1890—one volume;

The Current Warrant Auditor's Register—one volume;

Insurance Record for 1889—one volume;

Treasurer's Cash Book—"D";

Assessment Ledger—"B";

Dakota Territory Bond Register—one volume;

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at

the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts or such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two States.

By the Committee on Schedule and Ordinance.

L. H. HOLE,  
Chairman.

On motion of Mr. Hole, the rules were suspended and the last report adopted.

On motion of Mr. Hole, the report of the Committee on Schedule, which had been considered section by section, was adopted as a whole.

Mr. Sherwood moved

To adopt report on State, County and Municipal Indebtedness.

The President called Mr. Williams to the chair.

Mr. Williamson moved the following amendment:

That the report of the Committee be amended by inserting the figures 100,000 in lieu of the figures 500,000 in Section 2.

On motion of Mr. Hole

The further consideration of the Committee's report was postponed till 2 o'clock P. M.

On motion of Mr. Sherwood,

A recess was taken till 2 o'clock P. M.

2 o'clock P. M.

President in the chair.

Mr. Caldwell asked consent to offer the following resolution:

WHEREAS, There are at present outstanding bonds of the Territory of Dakota, aggregating \$107,500 of which \$77,500 bears five per cent interest, and \$30,000 six per cent interest, which are payable at the option of the Territory after May 1, 1888; and,



WHEREAS, The Territorial Treasurer has power under the Territorial law to declare said option; and,

WHEREAS, It is the judgment of said treasurer that it would be possible under the present favorable condition of the bond market to refund said bonds at a much lower rate of interest; therefore, be it

*Resolved*, By this convention, that in its judgment the public welfare would be subserved by such refunding, and that it hereby requests the Territorial Treasurer to take steps looking toward such action; provided, however, that the rate of interest which the refunding bonds shall bear shall not exceed four per cent. per annum, and that any premiums secured upon such bonds should inure to the benefit of the general fund of the Territory.

The resolution was adopted.

Mr. Williamson moved

To amend the report of the Committee on State and Municipal Indebtedness by inserting the figures 100,000 in lieu of the figures 500,000 in Section 2.

Carried.

Mr. Neill offered the following as an amendment:

SEC. 3. That the indebtedness of the State of South Dakota, limited by Section 2 of this Article, shall be in addition to the debt of the Territory of Dakota assumed by and agreed to be paid by South Dakota; Provided, that \$350,000 of said indebtedness limited by Section 2 be part of said Territorial indebtedness until the same is fully paid.

Amendment lost.

Mr. VanBuskirk offered

The following substitute for Section 2 of the Committee's report:

SEC. 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts, never to exceed, in the aggregate, Five Hundred Thousand Dollars, exclusive of the indebtedness to be assumed by the State of South Dakota upon the division of the Territory of Dakota, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection or defending the State or the United States in war; and provision shall be made by law for the payment of the interest annually and the principal when due, by tax levied for the purpose, or from other sources of revenue; which law providing for the payment of such interest and principal by

such tax or otherwise shall be irrevocable until such debt is paid; Provided, that until the present debt of South Dakota, assumed upon the division of North and South Dakota, shall have been paid, South Dakota shall not incur any indebtedness in excess of the sum of One Hundred and Fifty Thousand Dollars, but the Legislature may refund the indebtedness assumed and to be paid by South Dakota upon such division, and may use any part of the said sum of Five Hundred Thousand Dollars in excess of the said sum of One Hundred and Fifty Thousand Dollars to refund said indebtedness, and for no other purpose, but such refunding shall not be deemed a payment of such present indebtedness.

Amendment lost.

The report as amended was adopted.

Mr. Wood of Pennington moved,

That the vote by which the report was adopted be reconsidered and the motion to reconsider be laid upon the table.

Carried.

The Committee on Printing made the following report and moved its adoption.

SIoux FALLS, August 3, 1889.

MR. PRESIDENT:

Your Committee on Printing, having had under consideration the advisability of printing blank Certificates of Indebtedness relative to the expenses of this Convention, direct me to report recommending that this Convention do provide for the printing of one hundred and fifty (150) blank Certificates of Indebtedness, to comply in form to Rule 46 with the addition thereto in the beginning of said form the words, "This is to certify." All of which is respectfully submitted.

H. A. HUMPHREY,  
Chairman of Committee.

Motion carried.

On motion of Mr. Ringsrud

The Convention adjourned till 1 P. M. Monday.

## THIRTY-THIRD DAY.

SIOUX FALLS, D. T., August 5, 1889.

Convention called at 1 P. M.

Prayer by Rev. Huntley.

Mr. Price called to the chair.

Mr. Edgerton of Davison offered the following:

In order to facilitate action in accordance with Resolution adopted August 3d, 1889, I ask unanimous consent to offer the following:

SECTION 8. The Territorial Treasurer is hereby authorized and empowered to issue refunding bonds to the amount of \$107,500.00, bearing interest not to exceed the rate of four per cent per annum, for the purpose of refunding the following described indebtedness of the Territory of Dakota, to-wit:

\$77,500.00 5-per cent bonds, date May 1st, 1883, issued for the construction of the West Wing of the Insane Hospital at Yankton and \$30,000.00 six per cent bonds dated May 1st, 1883, issued for permanent improvements of Dakota Penitentiary at Sioux Falls, such refunding bonds, if issued, to run for not more than twenty years, and shall be executed by the Governor and Treasurer of the Territory, and shall be attested by the Secretary under the great seal of the Territory.

In case such bonds are issued by the Territorial Treasurer as hereinbefore set forth, before the first day of October, 1889, then upon the admission of South Dakota as a State it shall assume and pay said bonds in lieu of the aforesaid Territorial indebtedness.

On motion,

The resolution was adopted.

On motion of Mr. Price,

The further reading of the Journal was dispensed with.

Mr. Price offered

The following resolution:

*Resolved*, That for the conspicuously able and impartial manner in which he has presided over the deliberations of this Constitutional Convention and for his uniformly honorable and courteous treatment of the members and officers composing it,

the Hon. A. J. Edgerton has the sincere thanks of this Convention, that the conspicuous part borne by him in securing the admission of South Dakota into the Union of States and the invaluable services rendered by him in framing the fundamental law of the new State has inseparably linked his name with the history of the new Commonwealth of South Dakota, and as a testimonial of our regard for him he is hereby presented with the gavel which he has wielded with such dignity and fairness during the sessions of this Convention, and we cherish the hope that he may live many years to enjoy the rights and privileges of a citizen of the new State of South Dakota.

Mr. Clough moved that the resolution be adopted.

Motion carried by unanimous rising vote.

Mr. Hole asked unanimous consent to introduce the following, relative to funding debt clause to be added to Section 2, Article XIII:

Provided, however; the State of South Dakota shall have the power to refund the Territorial debt by the State of South Dakota assumed, in bonds of the State of South Dakota.

On motion the above was adopted.

The following resolution was introduced and on motion adopted:

*Resolved*, That the thanks of this Convention are hereby tendered to Rev. F. A. Burdick, Chief Clerk; Dr. A. W. Hyde, Enrolling and Engrossing Clerk; J. A. Wakefield, Chaplain; James Carney, Sergeant at Arms; E. C. Warner, Watchman; F. Hoppin, Messenger; Col. I. W. Goodner and T. G. Brown, Stenographers; and Albert Keith, Charley Walts and Frank Clough, Pages, for the faithful and able manner in which they have discharged the duties of their respective positions.

The Constitution was now read by the Clerk by title, and

Mr. Kellam offered the following:

*Resolved*, That the Constitution having been considered and acted upon Article by Article, the same be now passed, adopted and confirmed as a whole.

The above resolution was adopted by the following vote:

Ayes—Anderson, Atkinson, Berdahl, Boucher, Buechler, Caldwell, Clough, Coats, Cook, Cooper, Corson, Couchman, Craig, Culver, Davies, Dickinson, Diefendorf, Downing, Eddy, Edgerton of Yankton, Elliott, Fellows, Fowles, Gifford, Goddard, Hall, Harris, Hartley, Heninger, Hole, Houlton, Huntley, Humphrey, Jeffries, Jolley, Kellam, Kimball, Lee, Lyons, Matson, McFarland, McGillicuddy, Murphy, Neill, O'Brien, Parker, Peck, Price, Ramsey, Ringsrud, Scollard, Sherwood, Smith.



Spooner, Stoddard, Sterling, Stroupe, Thompson, VanBuskirk, VanEps, VanTassel, Westcott, Wheeler, Whitlock, Willis, Williams, Williamson, Wood of Pennington, Wood of Spink, Young, Zitka, Mr. President—(72).

Noes—0.

The roll was then called and each member came forward and attached his name to the engrossed Constitution, which reads as follows:

## PREAMBLE.

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquility, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this Constitution for the State of South Dakota.

## ARTICLE I.

### NAME AND BOUNDARY.

SECTION 1. The name of the state shall be South Dakota.

SEC. 2. The boundaries of the state of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota, with the northern boundary line of the State of Iowa and running thence northerly along the western boundary line of the State of Minnesota, to its intersection with the Seventh standard parallel; thence west on the line of the Seventh standard parallel produced due west to its intersection with the twenty-seventh meridian of longitude west from Washington; thence south on the twenty-seventh meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

## ARTICLE II.

### DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the State are divided into three distinct departments,—the Legislative, Executive and Judi-

cial; and the powers and duties of each are prescribed by this Constitution.

### ARTICLE III.

#### LEGISLATIVE DEPARTMENT.

SECTION I. The legislative power shall be vested in a Legislature, which shall consist of a Senate and House of Representatives.

SEC. 2. The number of members of the House of Representatives shall not be less than seventy-five nor more than one hundred and thirty-five. The number of members of the Senate shall not be less than twenty-five nor more than forty-five.

The sessions of the Legislature shall be biennial except as otherwise provided in this Constitution.

SEC. 3. No person shall be eligible to the office of Senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the State or Territory for two years next preceding his election.

No person shall be eligible to the office of representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the State or Territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No Judge or Clerk of any court, Secretary of State, Attorney General, States Attorney, Recorder, Sheriff or Collector of Public Moneys, member of either House of Congress, or person holding any lucrative office under the United States or this State, or any foreign government, shall be a member of the Legislature, provided, that appointments in the militia, the offices of Notary Public and Justice of the Peace shall not be considered lucrative; nor shall any person holding any office of honor or profit under any foreign government or under the government of the United States, except Post Masters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the Legislature or become a member thereof.

SEC. 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been, or may be collector or holder of public moneys, who shall not have accounted for and paid over, accord-

ing to law, all such moneys due from him, shall be eligible to the Legislature or to any office in either branch thereof.

SEC. 5. The Legislature shall provide by law for the enumeration of the inhabitants of the State in the year one thousand eight hundred and ninety-five and every ten years thereafter, and at its first regular session, after each enumeration and also after each enumeration made by authority of the United States, but at no other time, the Legislature shall apportion the Senators and Representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy. Provided, that the Legislature may make an apportionment at its first session after the admission of South Dakota as a State.

SEC. 6. The terms of the office of the members of the Legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the Legislature, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

Each regular session of the Legislature shall not exceed sixty days, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except per diem and mileage.

SEC. 7. The Legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at 12 o'clock M. in the year next ensuing the election of members thereof, and at no other time except as provided by this Constitution.

SEC. 8. Members of the Legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of South Dakota, and will faithfully discharge the duties of (Senator, Representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act.

This oath shall be administered by a Judge of the Supreme

or Circuit Court, or the Presiding officer of either House, in the hall of the house to which the member or officer is elected, and the Secretary of State shall record and file the oath subscribed by each member and officer.

Any member or officer of the Legislature who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the Legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of Senator or member of the House of Representatives or any office within the gift of the Legislature.

SEC. 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this Constitution.

SEC. 10. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislature.

SEC. 11. Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 12. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the Governor, the Governor and Senate, or from the Legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the Legislature during the term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the State or any county thereof, authorized by any law passed during the term for which he shall have been elected.

SEC. 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts



as require secrecy, and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the Journal.

SEC. 14. In all elections to be made by Legislature the members thereof shall vote *viva voce* and their votes shall be entered in the Journal.

SEC. 15. The sessions of each House and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 16. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 17. Every bill shall be read three several times but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

SEC. 18. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of South Dakota" and no law shall be passed unless by assent by a majority of all the members elected to each house of the Legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

SEC. 19. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of signing, shall be entered upon the Journal.

SEC. 20. Any bill may originate in either house of the Legislature, and a bill passed by one house may be amended in the other.

SEC. 21. No law shall embrace more than one subject which shall be expressed in its title.

SEC. 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency, (to be expressed in the preamble or body of the act) the Legislature shall by a vote of two-thirds of all the members elected of each house, otherwise direct.

SEC. 23. The Legislature is prohibited from enacting any private or specials laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir at law of another.

3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the State.
8. Remitting fines, penalties, or forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the Legislature may repeal any existing special law relating to the foregoing sub-divisions.

In all other cases where a general law can be applicable no special law shall be enacted.

SEC. 24. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

SEC. 25. The Legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense or for any purpose whatever.

SEC. 26. The Legislature shall not delegate to any special commission, private corporation, or association, any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise, or levy taxes, or to select a capital site, or to perform any municipal functions whatever.

SEC. 27. The Legislature shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 28. Any person who shall give, demand, offer, directly or indirectly, any money, testimonial, privilege or personal advantage, thing of value to any executive or judicial officer or member of the Legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the Legislature, or of public officers of the State, or any municipal division thereof, and any effort toward solicitation of said members of the Legislature or officers to influence their official action shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offence of bribery or corrupt solicitation and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterwards be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offences aforesaid, shall be disqualified from holding any office or position or office of trust or profit in this State.

## ARTICLE IV.

### EXECUTIVE DEPARTMENT.

SECTION 1. The executive power shall be vested in a Governor who shall hold his office two years, A Lieutenant Governor—shall be elected at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the State or Territory; nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 3. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected; but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the

same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the Legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the Legislature by message, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

SEC. 5. The Governor shall have the power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; provided, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a Board of Pardons consisting of the presiding Judge, Secretary of State and Attorney General, after full hearing in open session, and such recommendation, with the reasons therefor shall be filed in the office of the Secretary of State, but the Legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves, may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the pay shall be reported to the Legislature at its next regular session when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the Legislature at each regular session each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said Board of Pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

SEC. 6. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or other disability of the Governor the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

SEC. 7. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If during a vacancy in the office of Governor the Lieutenant Governor



shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 8. When any office shall, from any cause, become vacant and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have the power to fill such vacancy by appointment.

SEC. 9. Every bill which shall have passed the Legislature, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, but if not, he shall return it with the objection to the house in which it originated, which shall enter the objection at large upon the Journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the Journal of each House respectively. If any bill shall be returned by the Governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall by its adjournment prevent its return, in which case it shall be filed, with his objection, in the office of the Secretary of State, within ten days after such adjournment or become a law.

SEC. 10. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part and parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the Legislature be in session he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 11. Any Governor of this State who asks, receives, or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives, or offers, or promises his official influence in consideration that any member of the Legislature shall give his offi-

cial vote or influence on any particular side of any question or matter on which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power or who offers or promises any member that he, the said Governor will appoint any particular person or persons to any office created or thereafter to be created in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of the Legislature or who threatens any member that he, the said Governor will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be provided by law, and upon conviction thereon shall forfeit all right to hold or exercise any office of trust or honor in this State.

SEC. 12. There shall be chosen by the qualified electors of the State at the time and places of choosing members of the Legislature, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Schools and Public Lands, and an Attorney General, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of Treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

SEC. 13. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands and Attorney General shall be as prescribed by law.

## ARTICLE V.

### JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers of the State, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, Circuit Courts, County Courts, and Justices of the Peace, and such other courts as may be created by law for cities and incorporated towns.

SEC. 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

SEC. 3. The Supreme Court and the Judges thereof shall have power to issue writs of habeas corpus. The Supreme

Court shall also have power to issue writs of mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law; provided, however, that no jury trials shall be allowed in said Supreme Court, but, in proper cases, questions of fact may be sent by said court to a circuit court for trial before a jury.

SEC. 4. At least two terms of the Supreme Court shall be held each year at the seat of government.

SEC. 5. The Supreme Court shall consist of three Judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

SEC. 6. The number of said Judges and districts may after five years from the admission of this State under this Constitution, be increased by law to not exceeding five.

SEC. 7. A majority of the Judges of the Supreme Court shall be necessary to form a quorum or to pronounce a decision, but one or more of said Judges may adjourn the Court from day to day, or to a day certain.

SEC. 8. The term of the Judges of the Supreme Court, who shall be elected at the first election under this Constitution shall be four years. At all subsequent elections the term of said judges shall be six years.

SEC. 9. The judges of the Supreme Court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

SEC. 10. No person shall be eligible to the office of judge of the Supreme Court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

SEC. 11. Until otherwise provided by law, the districts from which the said judges of the Supreme Court shall be elected shall be constituted as follows:

First District,—All that portion of the State lying west of the Missouri river.

Second District,—All that portion of the State lying east of the Missouri river and south of the second standard parallel.



Third District,—All that portion of the State lying east of the Missouri river and north of the second standard parallel.

SEC. 12. There shall be a Clerk and also a Reporter of the Supreme Court, who shall be appointed by the Judges thereof and who shall hold office during the pleasure of such judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the Supreme Court not inconsistent with law. The Legislature shall make provisions for the publication and distribution of the decisions of the Supreme Court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the State.

SEC. 13. The Governor shall have authority to require the opinions of the Judges of the Supreme Court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

#### CIRCUIT COURTS.

SEC. 14. The Circuit Courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offence may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 15. The State shall be divided into Judicial Circuits, in each of which there shall be elected by the electors thereof one judge of the Circuit Court therein, whose term of office shall be four years.

SEC. 16. Until otherwise ordered by law, said circuits shall be eight in number and constituted as follows viz:

First Circuit,—The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit,—The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit,—The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Wahpeton and Sisseton reservation, except such portion of said reservation as lies in Marshall county.



Fourth Circuit,—The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

Fifth Circuit,—The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit,—The counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmonds, Walworth, Campbell, McPherson, and all that portion of said State lying east of the Missouri River and not included in any other Judicial Circuit.

Seventh Circuit,—The counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Sterling, Nowlin, Jackson, Washabaugh and Lugenbeel.

Eighth Circuit,—The counties of Lawrence, Meade, Sco-bey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri River and north of the Big Cheyenne River and the north fork of the Cheyenne River not included in any other Judicial Circuit.

SEC. 17. The Legislature may, whenever two-thirds of the members of each House shall concur therein, increase the number of Judicial Circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines; but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

SEC. 18. Writs of error and appeals may be allowed from the decisions of the Circuit Courts to the Supreme Court under such regulations as may be prescribed by law.

#### COUNTY COURTS.

SEC. 19. There shall be elected in each organized county a County Judge who shall be Judge of the County Court of said county whose term of office shall be two years until otherwise provided by law.

SEC. 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate guardianship, and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; provided, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars, except in matters of probate, guardianship and the estates of deceased persons. Writs of error

and appeal may be allowed from county to circuit courts, or to the Supreme Court in such cases and in such manner as may be prescribed by law; provided, that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a Justice of the Peace or police magistrate for cities or towns.

SEC. 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the Legislature may prescribe, and the prosecutions therein may be by information or otherwise as the Legislature may provide.

#### JUSTICE OF THE PEACE.

SEC. 22. Justices of the Peace shall have such jurisdiction as may be conferred by law but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

#### POLICE MAGISTRATE.

SEC. 23. The Legislature shall have power to provide for creating such police magistrate for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively and such police magistrates may also be constituted ex-officio Justices of the Peace for their respective counties.

#### STATES ATTORNEY.

SEC. 24. The Legislature shall have power to provide for State's Attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of Attorney General or State's Attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for Judges of Circuit Courts as prescribed in this article.

#### MISCELLANEOUS.

SEC. 25. No person shall be eligible to the office of Judge of the Circuit or County Courts, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this State or Territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

SEC. 26. The Judges of the Supreme Court, circuit courts and county courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the State, shall expire on the same day.

SEC. 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county and the Legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

SEC. 28. Special terms of said courts may be held under such regulations as may be provided by law.

SEC. 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulation as may be prescribed by law.

SEC. 30. The judges of the Supreme Court, Circuit Courts and County Courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; provided, that County Judges may accept and receive such fees as may be allowed under the Land Laws of the United States.

SEC. 31. No Judge of the Supreme Court or Circuits shall act as Attorney or Counselor-at-law, nor shall any County Judge act as an Attorney or Counselor-at-law in any case which is or may be brought into his court or which may be appealed therefrom.

SEC. 32. There shall be a Clerk of the Circuit Court in each organized county who shall also be Clerk of the County Court, and who shall be elected by the qualified electors of such county. The duties and compensation of said Clerk shall be as provided by law and regulated by the rules of the Court consistent with the provisions of law.

SEC. 33. Until the Legislature shall provide by law for fixing the terms of courts, the Judges of the Supreme, Circuit and County Courts respectively shall fix the terms thereof.



SEC. 34. All laws relating to Courts shall be general and of uniform operation throughout the State, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; provided, however, that the Legislature may classify the County Courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof accordingly.

SEC. 35. No judge of the Supreme or Circuit Courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such Judge. All votes for either of them during such terms for any elective office, except that of Judge of the Supreme Court, Circuit Court or County Court given by the Legislature or the people, shall be void.

SEC. 36. All judges or other officers of the Supreme, Circuit or County Courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

SEC. 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the election of offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the Supreme, Circuit and County courts by the Governor. All other judicial and other officers of the County Board of the counties where the vacancy occurs, in cases of police magistrates, by the municipality.

SEC. 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

## ARTICLE VI.

### BILL OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. No person shall be deprived of life, liberty or property without due process of law.



SEC. 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State.

No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the State shall be given or appropriated for the benefit of any sectarian or religious society or institution.

SEC. 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

SEC. 5. Every person may freely speak write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the facts and the law under the direction of the court.

SEC. 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy, but the Legislature may provide for a jury of less than twelve in any court not a court of record and for the decision of civil cases by three-fourths of the jury in any court.

SEC. 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of habeas corpus shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

SEC. 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

SEC. 10. No person shall be held for a criminal offense

unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger; provided, that the grand jury may be modified or abolished by law.

SEC. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or things to be seized.

SEC. 12. No ex post facto law, or law impairing the obligation of contracts or making any irrevocable grant of privilege, franchise or immunity, shall be passed.

SEC. 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highway shall remain in such owners, subject to the use for which it is taken.

SEC. 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

SEC. 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

SEC. 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 17. No tax or duty shall be imposed without the consent of the people or their representatives in the Legislature, and all taxation shall be equal and uniform.

SEC. 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

SEC. 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may

vote at their post of duty in or out of the state under regulations to be prescribed by the Legislature.

SEC. 20. All courts shall be opened, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

SEC. 21. No power of suspending laws shall be exercised, unless by the Legislature or its authority.

SEC. 22. No person shall be attainted of treason or felony by the Legislature.

SEC. 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

SEC. 24. The right of the citizens to bear arms in defense of themselves and the state shall not be denied.

SEC. 25. Treason against the State shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or confession in open court.

SEC. 26. All political power is inherent in the people and all free government is founded on their authority and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the State of South Dakota is an inseparable part of the American union, and the Constitution of the United States is the supreme law of the land.

SEC. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

## ARTICLE VII.

### ELECTIONS AND RIGHT OF SUFFRAGE.

SECTION 1. Every male person resident of this State who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this State six months, in the county thirty days, and in the election precinct where he offers his vote ten days next pre-



ceeding any election, shall be deemed a qualified elector at such election:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

SEC. 2. The Legislature shall at its first session after the admission of the State into the Union subject to a vote of the electors of the State the following question to be voted upon at the next general election held thereafter, namely: Shall the word 'male' be stricken from the article of the Constitution relating to elections and the right of suffrage." If a majority of the votes cast upon that question are in favor of striking out said word "male," it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this State.

SEC. 3. All votes shall be by ballot, but the Legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

SEC. 4. All general elections shall be biennial.

SEC. 5. Electors shall in all cases except treason, felony or breach of the peace be privileged from arrest during their attendance at election and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections, except in time of war or public danger.

SEC. 6. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

SEC. 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

SEC. 8. No person under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 9. Any woman having the qualifications enumerated in section 1 of this article, as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote at any election held solely for school purposes and may hold any office in this State, except as otherwise provided in this Constitution.



## ARTICLE VIII.

## EDUCATION AND SCHOOL LANDS.

SECTION 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the Legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all, and to adopt all suitable means to secure to the people the advantages and opportunities of education.

SEC. 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the State; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the State by escheat; the proceeds of all gifts or donations to the State for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the State. It shall be deemed a trust fund held by the State. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the State shall make good all losses thereof which may in any manner occur.

SEC. 3. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the State, and shall be for this purpose apportioned among and between all the several public school corporations of the State in proportion to the number of children in each, of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the State.

SEC. 4. After one year from the assembling of the first Legislature, the lands granted to the State by the United States for the use of public schools may be sold upon the following conditions and no other; Not more than one third of all such lands shall be sold within the first five years, and no more than two thirds within the first fifteen years after the title thereto is vested in the State, and the Legislature shall, subject to the provisions of this Article, provide for the sale of the same.

The Commissioner of Schools and Public Lands, the State

Auditor and the County Superintendent of Schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale at their actual value under the terms of sale.

They shall take care to first select and designate for sale the most valuable lands, and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

SEC. 5. No lands shall be sold for less than the appraised value and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years and one-fourth in fifteen years, with interest thereon at the rate of not less than six per centum per annum, payable annually in advance, but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be re-appraised by the board of appraisal as hereinbefore provided before they are sold.

SEC. 6. All sales shall be conducted through the office of the Commissioner of School and Public Lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the Governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

SEC. 7. All lands, money or other property donated, granted or received from the United States or any source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold,

shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the State shall make good all losses therefrom that shall in any manner occur.

SEC. 8. All lands mentioned in the proceeding section shall be appraised and sold in the same manner and by the same officers and boards under the same limitations, and subject to all the conditions as to price, sale and approval, provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

SEC. 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes and at public auction after notice as hereinbefore provided in case of sale, and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the Governor.

SEC. 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvement made by such trespasser.

SEC. 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this State as hereinafter provided, or in bonds of school corporations within the State, or in bonds of the United States, or of the State of South Dakota. The Legislature shall provide by law the method of determining the amounts of said funds which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, shall for such purpose be divided among the organized counties of the State in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss to any money so apportioned to



any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively; but no farm loan shall exceed five hundred dollars to any one person, nor shall it exceed one half the valuation of the land as assessed for taxation, and the rate of interest shall not be less than six per centum per annum, and shall be such other and higher rate as the Legislature may provide, and shall be payable semi-annually on the first day of January and July; provided, that whenever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the State Treasurer to be entrusted to some other County or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the fund intrusted to it to the Auditor of State, and at the same time pay to or account to the State Treasurer for the interest due on all funds intrusted to it.

The Legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annually payments to the State treasury of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest so to be paid be less than six per centum per annum.

The Legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

SEC. 12. The Governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

SEC. 13. All losses to the permanent school or other educational funds of this State which shall have been occasioned by the defalcation, negligence, mis-management or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount as audited shall be a permanent funded debt against the State in favor of the fund sustaining the loss upon which not less than six per centum of annual interest shall be paid. The amount of



indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII, section 2.

SEC. 14. The Legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

SEC. 15. The Legislature shall make such provisions by general taxation, and by authorizing the school corporations to levy such additional taxes as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the State.

SEC. 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the State, or any county or municipality within the State, nor shall the State or any county or municipality within the State accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the State.

SEC. 17. No teacher, State, County, Township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this State, under such penalties as shall be provided by law.

#### COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The Legislature shall provide by general law for organizing new counties, locating the county seats thereof and changing county lines; but no new counties shall be organized so as to include an area of less than twenty four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

SEC. 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place

receiving a majority of all votes cast at said election shall be county-seat of said county.

SEC. 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

SEC. 4. The Legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

SEC. 5. In each organized county at the first general election held after the admission of the State of South Dakota into the Union and every two years thereafter, there shall be elected a Clerk of the Court, Sheriff, County Auditor, Register of Deeds, Treasurer, State's Attorney, Surveyor, Coroner, and Superintendent of Schools, whose terms of office respectively shall be two years, and except Clerk of the Court no person shall be eligible for more than four years in succession to any of the above named offices.

SEC. 6. The Legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

SEC. 7. All county, township and district officers shall be electors in the county, township or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person as provided in section 9, Article VII.

## ARTICLE X.

### MUNICIPAL CORPORATIONS.

SECTION I. The Legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four and the powers

of each class shall be defined by general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The Legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

SEC. 2. Except as otherwise provided in this Constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose ever be diverted to any other.

SEC. 3. No street passenger railway or telegraph or telephone lines shall be constructed within the limits of any village, town or city without the consent of its local authorities.

## ARTICLE XI.

### REVENUE AND FINANCE.

SECTION 1. The Legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the State for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the State for such year, the Legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income to pay the deficiency of the preceeding year together with the estimated expences of such ensuing year. And for the purpose of paying the public debt, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the State as ascertained by the last assessment made for the State and County purposes.

SEC. 2. All taxes to be raised in this State shall be uniform on all real and personal property, according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the Legislature by general law, so that every person and corporation shall pay a tax in



proportion to the value of his, her or its property. And the Legislature shall provide by general law for the assessing and levying of taxes on all corporation property as near as may be by the same methods as are provided for assessing and levying of taxes on individual property.

SEC. 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

SEC. 4. The Legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

SEC. 5. The property of the United States and of the State, county and municipal corporations, both real and personal shall be exempt from taxation.

SEC. 6. The Legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

SEC. 7. All laws exempting property from taxation, other than that enumerated in section 5 and 6 of this Article, shall be void.

SEC. 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

SEC. 9. All taxes levied and collected for State purposes shall be paid into the State treasury. No indebtedness shall be incurred or money expended by the State, and no warrants shall be drawn upon the State treasurer except in pursuance of an appropriation for the specific purpose first made. The Legislature shall provide by suitable enactment for carrying this section into effect.

SEC. 10. The Legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special taxation of contiguous property or otherwise. For corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such



tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

SEC. 11. The making of profit, directly or indirectly, out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

SEC. 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the Legislature may provide.

## ARTICLE XII.

### PUBLIC ACCOUNTS AND EXPENDITURES.

SECTION 1. No money shall be paid out of the treasury except upon appropriation by law and on warrants drawn by the proper officer.

SEC. 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the State, the current expenses of state institutions, interest on the public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object and shall require a two-thirds vote of all the members of each branch of the Legislature.

SEC. 3. The Legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorized the payment of any claims or parts thereof created against the State, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; provided, however, that the Legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

SEC. 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the Legislature shall provide, and such statements shall be submitted to the Legislature at the beginning of each regular session by the Governor with his message.

## ARTICLE XIII.

### PUBLIC INDEBTEDNESS.

SECTION 1. Neither the State nor any county, township or

municipality shall loan or give its credit or make donation to or in aid of any individual association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; provided, that the State may assume or pay such debt or liability when incurred in time of war for the defense of the State. Nor shall the State engage in any work of internal improvement.

SEC. 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts never to exceed with previous debts in the aggregate \$100,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the State or the United States in war and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid; provided, however the State of South Dakota shall have the power to refund the Territorial debt assumed by the State of South Dakota, by bonds, of the State of South Dakota.

SEC. 3. That the indebtedness of the State of South Dakota limited by section 2 of this article shall be in addition to the debt of the Territory of Dakota assured by and agreed to be paid by South Dakota.

SEC. 4. The Debt of any County, city, town, school-district or other sub-division, shall never exceed five per-centum upon the assessed value of the taxable property therein.

In estimating the amount of Indebtedness which a municipality or sub-division may incur, the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

SEC. 5. Any city, county, town, school district or any other sub-division incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid.

SEC. 6. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Da-

kota may be justly and equitably provided for and made, and in pursuance of the requirements of an Act of Congress approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State governments and to be admitted into the Union on an equal footing with the original States, and to make donations of Public Lands to such States" the States of North Dakota and South Dakota, by proceedings of a joint Commission, duly appointed under said Act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit.

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota, in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota" wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the state of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain Act of the Legislative Assembly of the Territory of Dakota, approved March 3, 1889, entitled an Act to provide for the Refunding of Outstanding Warrants drawn on the Capitol Building Fund.

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds



issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is Two Hundred and Sixty-six Thousand Dollars; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is Ninety-six Thousand Seven Hundred Dollars; also bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is Ninety-three Thousand Six Hundred Dollars; also Refunding Capitol Building Warrants dated April 1, 1889, Eighty-three Thousand Five Hundred and Seven Dollars and Forty-six cents.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is Two Hundred and Ten Thousand Dollars; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is Fifty-One Thousand Dollars; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is Seventy-five Thousand Dollars; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is Ninety-Four Thousand Three Hundred Dollars; also, bonds issued on account of Agricultural College, at Brookings, South Dakota, the face aggregate of which is Ninety-Seven Thousand Five Hundred Dollars; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is Forty-Nine Thousand Four Hundred Dollars; also, bonds issued on account of School of Mines at Rapid City, South Dakota, the face aggregate of which is Thirty-three Thousand Dollars; also, bonds on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is Thirty Thousand Dollars; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is Twenty-five Thousand Dollars; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is Forty-five Thousand Dollars.

6. The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore and hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota Forty Six Thousand Five Hundred Dollars, on



account of the excess of Territorial appropriations for the permanent improvement of Territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one half interest of North Dakota in the Territorial Library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of the Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had Such Territory remained in existence and which liability shall grow out of matters connected with any public institution, grounds or buildings of the Territory situated or located within the boundaries of the other state.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8th, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the Territorial government during the same time. All moneys paid into the Treasury during the period from March 8th, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said Treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said Treasury by railroad corporations since the eighth day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota, approved March 7th, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889 (that is, the part of such sum going to the Territory) shall be equally divided between the States of North Da-

kota and South Dakota, and all taxes heretofore or hereafter paid into the said Treasury under and by virtue of the Act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial Treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; Each State shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8th, 1889. If there be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State as provided in this Article; And if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

SECTION 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing Agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

SEC. 8. The Territorial Treasurer is hereby authorized and empowered to issue refunding bonds to the amount of \$107,500, bearing interest not to exceed the rate of four per cent. per annum, for the purpose of refunding the following described indebtedness of the Territory of Dakota, to-wit:

\$77,500 5-per cent. bonds, dated May 1st, 1883, issued for the construction of the West Wing of the Insane Hospital at Yankton, and \$30,000 6-per cent. bonds dated May 1st, 1883, issued for permanent improvements of Dakota Penitentiary, at Sioux Falls, such refunding bonds if issued, to run for not more than twenty years, and shall be executed by the Governor and Treasurer of the Territory, and shall be attested by the Secretary under the great Seal of the Territory.

In case such bonds are issued by the Territorial Treasurer as hereinbefore set forth, before the first day of October, 1889, then upon the admission of South Dakota as a State it shall assume and pay said bonds in lieu of the aforesaid Territorial indebtedness.

## ARTICLE XIV.

### STATE INSTITUTIONS.

SECTION 1. The charitable and penal institutions of the State of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

SEC. 2. The State institutions provided for in the preceding section shall be under the control of a State Board of Charities and Corrections, under such rules and restrictions as the Legislature shall provide; such board to consist of not to exceed five members, to be appointed by the Governor and confirmed by the Senate, and whose compensation shall be fixed by law.

SEC. 3. The State university, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the State shall be under the control of a board of nine members, appointed by the Governor and confirmed by the Senate to be designated the regents of education. They shall hold their office for six years, three retiring every second year.

The regents in connection with the faculty of each institution shall fix the course of study in the same.

The compensation of the regents shall be fixed by the Legislature.

SEC. 4. The regents shall appoint a board of five members for each institution under their control, to be designated the board of trustees. They shall hold office for five years, one member retiring annually. The trustees of each institution shall appoint the faculty of the same, and shall provide for the current management of the institution, but all appointments and removals must have the approval of the regents to be valid. The trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer. Each board of trustees at its first meeting shall decide by lot the order in which its members shall retire from office.

SEC. 5. The Legislature shall provide that the science of



mining and metallurgy be taught in at least one institution of learning under the patronage of the State.

## ARTICLE XV.

### MILITIA.

SECTION 1. The militia of the State of South Dakota shall consist of all able-bodied male persons residing in the State, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this State.

SEC. 2. The Legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the State, the preservation of order and the efficiency and good of the service.

SEC. 3. The Legislature in providing for the organization of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 4. All militia officers shall be commissioned by the Governor, and may hold their commissions for such period of time as the Legislature may provide, subject to removal by the Governor for cause, to be first ascertained by a court martial pursuant to law.

SEC. 5. The militia shall in cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster, and elections and in going to and returning for the same.

SEC. 6. All military records, banners and relics of the State, except when in lawful use, shall be preserved in the office of the Adjutant General as an enduring memorial of the patriotism and valor of South Dakota; and it shall be the duty of the Legislature to provide by law for the safe keeping of the same.

SEC. 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

## ARTICLE XVI.

### IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The House of Representatives shall have the sole power of impeachment.



The concurrence of a majority of all members elected shall be necessary to an impeachment.

SEC. 2. All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial the presiding Judge of the Supreme Court shall preside.

SEC. 3. The Governor and other State and judicial officers, except county judges, justices of the peace and police magistrates shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the State. The person accused whether convicted or acquitted shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office, or for drunkenness or gross incompetency, in such manner as may be provided by law.

SEC. 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 6. On trial of an impeachment against the Governor the Lieutenant Governor shall not act as a member of the court.

SEC. 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

SEC. 8. No person shall be liable to impeachment twice for the same offense.

## ARTICLE XVII.

### CORPORATIONS.

SECTION 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State; but the Legislature shall provide, by general laws for the organization of all corporations hereafter to be created.

SEC. 2. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall

not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 3. The Legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

SEC. 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the State.

SEC. 5. In all elections for directors or managers of a corporation, each member or share holder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

SEC. 6. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

SEC. 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

SEC. 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days notice given in pursuance of law.

SEC. 9. The Legislature shall have the power to alter, revise or annul, any charter of any corporation now existing and revocable at the taking effect of this Constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this State, in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter en-

acted shall create, renew or extend the charter of more than one corporation.

SEC. 10. No law shall be passed by the Legislature granting the right to construct and operate a street railroad within any city, town or incorporated village without requiring the consent of the local authorities having the control of the streets or highway proposed to be occupied by such street railroad.

SEC. 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state, and to connect the same with other lines; and the Legislature shall by general law of uniform operation provide reasonable regulation to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph.

SEC. 12. Every railroad corporation organized or doing business in this State under the laws or authority thereof shall have and maintain a public office or place in this State for the transaction of its business, where transfers of its stocks shall be made, and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stocks paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities; and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the Auditor, of public accounts or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 13. The rolling stock, and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the Legislature shall pass no laws exempting such property from execution and sale.

SEC. 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out, at least sixty days to all stock-holders in such manner as may be



provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 15. Railways heretofore constructed or that may hereafter be constructed, in this State are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to Legislative control; and the Legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this State.

SEC. 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 17. The Legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

SEC. 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by viewers or otherwise, and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

SEC. 19. The term "corporations" as used in this Article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.



## ARTICLE XVIII.

## BANKING AND CURRENCY.

SECTION. 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this State of all bills or papers credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in the approved securities of the State or of the United States, to be rated at 10 per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

SEC. 2. Every bank, banking company or corporation shall be required to cease all banking operation within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is fully closed, but the Legislature may provide by general law for the reorganization of such banks.

SEC. 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares or stocks; and such individual liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

## ARTICLE XIX.

## CONGRESSIONAL AND LEGISLATIVE APPOINTMENT.

SECTION 1. Until otherwise provided by law, the members of the House of Representatives of the United States, apportioned to this State, shall be elected by the State at large.

SEC. 2. Until otherwise provided by law, the senatorial and representative districts shall be formed, and the Senators and Representatives shall be apportioned as follows:

## SENATORIAL DISTRICTS.

District No. 1, shall consist of the county of Union and be entitled to one Senator.

District No. 2, shall consist of the county of Clay and be entitled to one Senator.

District No. 3, shall consist of the county of Yankton and be entitled to one Senator.

District No. 4, shall consist of the county of Bon Homme and be entitled to one Senator.

District No. 5, shall consist of the county of Lincoln and be entitled to one Senator.

District No. 6, shall consist of the county of Turner and be entitled to one Senator.

District No. 7, shall consist of the county of Hutchinson and be entitled to one Senator.

District No. 8, shall consist of the counties of Charles Mix and Douglas and be entitled to one Senator.

District No. 9, shall consist of the county of Minnehaha and be entitled to two Senators.

District No. 10, shall consist of the county of McCook and be entitled to one Senator.

District No. 11, shall consist of the county of Hanson and be entitled to one Senator.

District No. 12, shall consist of the county of Davison and be entitled to one Senator.

District No. 13, shall consist of the county of Aurora and be entitled to one Senator.

District No. 14, shall consist of the county of Brule and be entitled to one Senator.

District No. 15, shall consist of the county of Moody and be entitled to one Senator.

District No. 16, shall consist of the county of Lake and be entitled to one Senator.

District No. 17, shall consist of the county of Miner and be entitled to one Senator.

District No. 18, shall consist of the county of Sanborn and be entitled to one Senator.

District No. 19, shall consist of the counties of Jerauld and Buffalo and be entitled to one Senator.

District No. 20, shall consist of the county of Brookings and be entitled to one Senator.

District No. 21, shall consist of the county of Kingsbury and be entitled to one Senator.

District No. 22, shall consist of the county of Beadle and be entitled to one Senator.

District No. 23, shall consist of the county of Hand and be entitled to one Senator.

District No. 24, shall consist of the counties of Hyde and Hughes and be entitled to one Senator.

District No. 25, shall consist of the counties of Sully and Potter and be entitled to one Senator.

District No. 26, shall consist of the county of Deuel and be entitled to one Senator.

District No. 27, shall consist of the county of Hamlin and be entitled to one Senator.

District No. 28, shall consist of the county of Codington and be entitled to one Senator.

District No. 29, shall consist of the county of Clark and be entitled to one Senator.

District No. 30, shall consist of the county of Spink and be entitled to two Senators.

District No. 31, shall consist of the counties of Grant and Roberts and be entitled to one Senator.

District No. 32, shall consist of the county of Day and be entitled to one Senator.

District No. 33, shall consist of the county of Brown and be entitled to two Senators.

District No. 34, shall consist of the county of Marshall and be entitled to one Senator.

District No. 35, shall consist of the county of Faulk and be entitled to one Senator.

District No. 36, shall consist of the counties of Edmonds and McPherson and be entitled to one Senator.

District No. 37, shall consist of the counties of Walworth and Campbell and be entitled to one Senator.

District No. 38, shall consist of the county of Lawrence and be entitled to two Senators.

District No. 39, shall consist of the county of Pennington and be entitled to one Senator.

District No. 40, shall consist of the counties of Meade and Butte and be entitled to one Senator.

District No. 41, shall consist of the county of Custer and be entitled to one Senator.

#### REPRESENTATIVE DISTRICTS.

District No. 1, shall consist of the county of Union and be entitled to three Representatives.

District No. 2, shall consist of the county of Clay and be entitled to two Representatives.

District No. 3, shall consist of the county of Yankton and be entitled to four Representatives.

District No. 4, shall consist of the county of Bon Homme and be entitled to three Representatives.

District No. 5, shall consist of the county of Lincoln and be entitled to three Representatives.

District No. 6, shall consist of the county of Turner and be entitled to three Representatives.

District No. 7, shall consist of the county of Hutchinson and be entitled to two Representatives.

District No. 8, shall consist of the county of Douglas and be entitled to two Representatives.

District No. 9, shall consist of the county of Charles Mix and be entitled to two Representatives.

District No. 10, shall consist of the county of Minnehaha and be entitled to seven Representatives.

District No. 11, shall consist of the county of McCook and be entitled to two Representatives.

District No. 12, shall consist of the county of Hanson and be entitled to two Representatives.

District No. 13, shall consist of the county of Davison and be entitled to two Representatives.

District No. 14, shall consist of the county of Aurora and be entitled to two Representatives.

District No. 15, shall consist of the county of Brule and be entitled to three Representatives.

District No. 16, shall consist of the county of Moody and be entitled to two Representatives.

District No. 17, shall consist of the county of Lake and be entitled to three Representatives.

District No. 18, shall consist of the county of Miner and be entitled to two Representatives.

District No. 19, shall consist of the county of Sanborn and be entitled to two Representatives.

District No. 20, shall consist of the county of Jerauld and be entitled to one Representative.

District No. 21, shall consist of the county of Buffalo and be entitled to one Representative.

District No. 22, shall consist of the county of Brookings and be entitled to three Representatives.

District No. 23, shall consist of the county of Kingsbury and be entitled to three Representatives.

District No. 24, shall consist of the county of Beadle and be entitled to five Representatives.

District No. 25, shall consist of the county of Hand and be entitled to three Representatives.

District No. 26, shall consist of the county of Hyde and be entitled to one Representative.

District No. 27, shall consist of the county of Hughes and be entitled to one Representative.

District No. 28, shall consist of the county of Sully and be entitled to one Representative.



District No. 29, shall consist of the county of Deuel and be entitled to two Representatives.

District No. 30, shall consist of the county of Hamlin and be entitled to two Representatives.

District No. 31, shall consist of the county of Codington and be entitled to three Representatives.

District No. 32, shall consist of the county of Clark and be entitled to three Representatives.

District No. 33, shall consist of the county of Spink and be entitled to five Representatives.

District No. 34, shall consist of the county of Faulk and be entitled to two Representatives.

District No. 35, shall consist of the county of Potter and be entitled to one Representative.

District No. 36, shall consist of the county of Grant and be entitled to two Representatives.

District No. 37, shall consist of the county of Roberts and be entitled to one Representative.

District No. 38, shall consist of the county of Day and be entitled to three Representatives.

District No. 39, shall consist of the county of Marshall and be entitled to two Representatives.

District No. 40, shall consist of the county of Brown and be entitled to eight Representatives.

District No. 41, shall consist of the county of Edmonds and be entitled to two Representatives.

District No. 42, shall consist of the county of Walworth and be entitled to one Representative.

District No. 43, shall consist of the county of McPherson and be entitled to two Representatives.

District No. 44, shall consist of the county of Campbell and be entitled to one Representative.

District No. 45, shall consist of the county of Fall River and be entitled to one Representative.

District No. 46, shall consist of the county of Custer and be entitled to two Representatives.

District No. 47, shall consist of the county of Pennington and be entitled to two Representatives.

District No. 48, shall consist of the county of Meade and be entitled to two Representatives.

District No. 49, shall consist of the county of Lawrence and be entitled to six Representatives.

District No. 50, shall consist of the county of Butte and be entitled to one Representative.

## ARTICLE XX.

## SEAT OF GOVERNMENT.

SECTION 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota, in the same manner and at the same election at which this Constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

SEC. 2. The Legislature at its first session after the admission of this State, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the State at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

SEC. 3. Should no place voted for at said election have a majority of all votes cast upon this question, the Governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. The election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

## ARTICLE XXI.

## MISCELLANEOUS.

SECTION 1. SEAL AND COAT OF ARMS.—The design of the Great Seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plough. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear, a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend, "Under God the People Rule," which shall be the motto of the State of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words "State of South Dakota." In the lower part the words "Great Seal," and the date in Arabic numerals of the year in which the State shall be admitted to the Union.

## COMPENSATION OF PUBLIC OFFICERS.

SEC. 2. The Governor shall receive an annual salary of two thousand five hundred dollars; the Judges of the Supreme Court shall each receive an annual salary of two thousand five hundred dollars; the judges of the circuit courts shall each receive an annual salary of two thousand dollars; provided, that the Legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the Governor and each of the Judges of the Supreme Court to three thousand dollars, and the annual salary of each of the circuit court judges to two thousand five hundred dollars.

The Secretary of State, State Treasurer and State Auditor shall each receive an annual salary of one thousand eight hundred dollars; the Commissioner of School and Public Lands shall receive an annual salary of one thousand eight hundred dollars; the Superintendant of Public Instruction shall receive an annual salary of one thousand eight hundred dollars; the Attorney General shall receive an annual salary of one thousand dollars; the compensation of the Lieutenant Governor shall be double the compensation of a State Senator.

They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the Legislature to increase the salaries of the officers named in this article except as herein provided.

SEC. 3. OATH OF OFFICE.—Every person elected or appointed to any office in this State, except such inferior offices as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully to discharge the duties of his office.

SEC. 4. EXEMPTIONS.—The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families and a reasonable amount of personal property, the kind and value of which to be fixed by general laws.

SEC. 5. Rights of Married Women. The real and personal property of any woman in this State, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.



## ARTICLE XXII.

## COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the State of South Dakota expressed by their Legislative Assembly:—

First, That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second, That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundary of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents of this State that no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been or may be granted to any Indian, or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law of the United States, shall remain exempt to the extent, and as prescribed by such act of Congress.

Third, That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth, That provision shall be made for the establishment and maintenance of systems of public schools; which shall be opened to all the children of this State, and free from sectarian control.



## ARTICLE XXIII.

## AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the Legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this Constitution; provided, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the Legislature may provide; and provided further that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendment separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a convention to revise this Constitution they shall recommend to the electors to vote at the next election for members of the Legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the Legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives of the Legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

## ARTICLE XXIV.

## PROHIBITION.

(To be submitted to a separate vote as provided by the schedule and ordinance.)

No person or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale, as a beverage, any intoxicating liquor. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof.

## ARTICLE XXV.

## MINORITY REPRESENTATION.

(To be submitted to a separate vote as provided by the schedule and ordinance.)

SECTION 1. The House of Representatives shall consist of three times the number of members of the Senate, and the term of office shall be two years. Three Representatives shall be elected in each senatorial district at the first general election held after this Constitution takes effect, and every two years thereafter.

SEC. 2. In all elections of Representatives aforesaid each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he may see fit; and the candidates highest in votes shall be declared elected.

## ARTICLE XXVI.

## SCHEDULE AND ORDINANCE.

SECTION. 1. That no inconvenience may arise from the change of the Territorial government to the permanent State government, it is hereby declared that all writs, actions, prosecutions, claims and rights of individuals, and all bodies corporate, shall continue as if no change had taken place in this government; and all process which may be before the organization of the Judicial Department under this Constitution issued under the authority of the Territory of Dakota, within the boundary of this State, shall be as valid as if issued in the name of the State of South Dakota.

SEC. 2. That all fines, penalties, forfeitures and escheats accruing to the Territory of Dakota, within the boundary of the State of South Dakota, shall accrue to the use of said State.

SEC. 3. That all recognizances, bonds, obligations or other undertakings, heretofore taken, or which may be taken before the organization of the Judicial Department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State of South Dakota; and all bonds, obligations or undertakings, executed to this Territory, within the boundaries of the State of South Dakota, or to any officer in his official capacity, shall pass over to the proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly.

All criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the Judicial Department under the Constitution and which shall then be pending, may be prosecuted to judgment and executed in the name of the State.

SEC. 4. All officers, civil and military, now holding their offices and appointments in this Territory, under the authority of the United States, or under the authority of the Territory of Dakota, shall continue to hold and exercise their respective offices and appointments until superseded under this Constitution;

Provided, That the provision of the above sections shall be subject to the provision of the act of Congress providing for the admission of the State of South Dakota, approved by the President of the United States, on February 22, 1889.

SEC. 5. This Constitution shall be submitted for adoption or rejection to a vote of the electors, qualified by the laws of this Territory to vote at all elections, at the election to be held on Tuesday, October 1, 1889.

At the said election the ballot shall be in the following form:

For the Constitution; Yes. No.

For Prohibition; Yes. No.

For Minority Representation; Yes. No.

As a heading to each of said ballots shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the Constitution, or for any of the articles submitted to a separate vote, must erase the word "No."

All persons who desire to vote against the Constitution, or against any article submitted separately, must erase the word "Yes."

Any person may have printed or written on his ballot only the words "For the Constitution," or "Against the Constitution," and such ballots shall be counted for, or against the Constitution accordingly. The same provision shall apply to articles submitted separately.

In addition to the foregoing election for the Constitution and for the Articles submitted by this Convention for a separate vote thereon, an election shall be held at the same time and places, by the said qualified electors, for the following State officers, to be voted for on the same ballot as above provided for votes on the Constitution and separate Articles to wit:

A Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges



of the Supreme, Circuit and County Courts, Representatives in Congress, State Senators, and Representatives in the Legislature.

All the elections above provided for shall be held in the same manner and form as provided for the election for the adoption or rejection of the Constitution. And the names of all the officers above specified to be voted for at such election shall be written or printed upon the same ballots as the vote for or against the Constitution.

The judges of election in counting the ballots voted at such election shall count all the affirmative ballots upon the Constitution as votes for the Constitution; and they shall count all the negative ballots voted at said election upon the Constitution, as votes against the Constitution; and ballots voted at said election upon which neither of said words "Yes" or "No" following the words "For the Constitution" are erased shall not be counted upon such proposition. And they shall count all affirmative ballots so voted upon the Article on Prohibition, separately submitted, as votes for such Article and they shall count all negative ballots so voted upon such Article as votes against such Article.

And ballots upon which neither the words "Yes" or "No" following the words "For Prohibition" are erased, shall not be counted upon such proposition. And they shall count all the affirmative ballots so voted upon the Article on Minority Representation, separately submitted, as votes for such Article. And they shall count all negative ballots so voted upon such Article, as votes against such Article and ballots upon which neither of said words "Yes" or "No" following the words "For Minority Representation" are erased, shall not be counted upon such proposition.

If it shall appear in accordance with the returns hereinafter provided for, that a majority of the votes polled at such election, for and against the Constitution, are for the Constitution, then this Constitution shall be the Constitution of the State of South Dakota. If it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "Prohibition" are for prohibition, then said Article XXIV shall be and form a part of this Constitution, and be in full force and effect as such from data of said election. But if a majority of said votes shall appear, according to said returns, to be against Prohibition, then Article XXIV shall be null and void and shall not be a part of this Constitution. And if it appear, according to the returns hereinafter provided for, that a majority



of all votes cast at said election for and against Minority Representation, are for Minority Representation then Article XXV shall be and form a part of said Constitution and be in full force and effect as such from the date of said election. But if a majority of said votes shall appear, according to said returns, to be against Minority Representation, then said Article XXV shall be null and void and shall not be a part of this Constitution.

At such election the person voted for, for any one of the offices to be filled at such election, who shall receive the highest number of votes cast at said election, shall be declared elected to said office.

SEC. 6. At the same time and places of election there shall be held by said qualified electors an election for the place of the temporary seat of government.

On each ballot, and on the same ballot, on which are the matters voted for or against, as hereinbefore provided, shall be written or printed the words, "For Temporary Seat of Government." (Here insert the name of the city, or town, or place to be voted for.)

And upon the canvass and returns of the vote, made as hereinafter provided for, the name of the city, town, or place, which shall have received the largest number of votes for said temporary seat of government, shall be declared by the Governor, Chief Justice and Secretary of the Territory of Dakota, or by any two of them at the same time that they shall canvass the vote for or against the Constitution, together with the whole number of votes cast for each city, town or place, and the officers above named, shall immediately after the result of said election shall have been ascertained, issue a proclamation directing the Legislature elected at said election, to assemble at said city, town, or place so selected, on the day fixed by this schedule and ordinance.

SEC. 7. The election provided for herein shall be under the provisions of the Constitution herewith submitted, and shall be conducted in all respects as elections are conducted under the general laws of the Territory of Dakota, except as herein provided. No mere technicalities or informalities in the manner or form of election, or neglect of any officer to perform his duty with regard thereto, shall be deemed to vitiate or avoid the same, it being the true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of South Dakota, as expressed by their votes at the polls.

SEC. 8. Immediately after the election herein provided for, the judges of election at each voting place shall make a true and

complete count of all the votes duly cast at such election, and shall certify and return the result of the same with the names of all the candidates and the number of votes cast for each candidate, and the number of votes cast for and against the Constitution, and the number of votes cast for and against Prohibition, and the number of votes cast for and against Minority Representation, and the number of votes cast for each city, town or place, for the "temporary seat of government" to the county clerk or auditor of the respective counties, together with one of the poll lists and election books used in said election.

SEC. 9. Within five days after said election the several boards of county canvassers, provided by law for the canvassing of the results of the election, shall make and certify to the Secretary of the Territory of Dakota, the true and correct return of the total number of votes cast for the Constitution, and against the Constitution, of the number of votes cast for and against "Prohibition," and the number of votes cast for and against "Minority Representation," and the number of votes cast for each city, town or place as the "temporary seat of government," and of the number of votes cast for each person voted for at such election, except county officers and members of the Legislature, and shall transmit the same to the Secretary of the Territory of Dakota, by mail, and shall file with the county clerk or auditor of each of said counties a duplicate and certified copy of said return.

Said board of county canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast for the respective offices of judge of county court, and Representatives in the Legislature, and for State Senator or Senators.

SEC. 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the clerks and auditors of the respective counties to attend at the office of the county clerk of the senior county in the date of organization within twenty days after the date of election and they shall compare the votes given in the several counties comprising such senatorial and representative district and such clerks or auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for State Senator or Representative or both; which certificate shall be delivered to the person entitled thereto on his application to the clerk of the senior county of such district.

SEC. 11. The Secretary of the Territory shall receive all returns of election transmitted to him as above provided, and

shall preserve the same, and after they have been canvassed as hereinafter provided, and after the admission of the State of South Dakota, into the Union, he shall deliver said returns to the proper State officer of said State of South Dakota.

Within fifteen days after said election, the Secretary of the Territory, with the Governor, and Chief Justice thereof, or any two of them, shall canvass such returns, and certify the same to the President of the United States, as provided in the Enabling Act.

They shall also ascertain the total number of votes cast at such election for the Constitution and against the Constitution; the total number of votes cast for and against Prohibition; and the total number of votes cast for and against Minority Representation; and the total number of votes cast for each city, town or place as the "temporary seat of government;" and the total number of votes cast for each person voted for, for any office at said election, excepting county judges and members of the Legislature, and shall declare the result of said election in conformity with such vote, and the Governor of the Territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to the State Legislature, immediately upon its organization, a list of all of the State and judicial officers who shall thus be ascertained to be duly elected.

The various county and district canvassing boards shall make and transmit to the Secretary of the Territory the names of all persons declared by them to be elected members of the Senate and House of Representatives of the State of South Dakota; he shall make separate lists of the Senators and Representatives so elected, which lists shall constitute the rolls under which the Senate and House of Representatives shall be organized.

The Governor of the Territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes, for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, and Judges of the Supreme and Circuit Courts. Such certificates to be attested by the Secretary of the Territory.

SEC. 12. The apportionment made in this Constitution shall govern the elections above provided for, for members of the State Legislature until otherwise provided by law.

At the first election held under this Ordinance for Senators and Representatives of the Legislature, there shall be elected forty-five Senators, and one hundred and twenty-four Representatives in the State Legislature respectively.



SEC. 13. The Legislature elected under the provisions of this Ordinance and Constitution shall assemble at the temporary seat of government on the third Tuesday in October in the year A. D. 1889, at twelve o'clock noon, and on the first day of their assemblage, the Governor and other State officers shall take the oath of office in the presence of the Legislature. The oath of office shall be administered to the members of the Legislature, and to the State officers by the Chief Justice of the Territory, or by any other officer duly authorized by the laws of the Territory of Dakota to administer oaths.

SEC. 14. Immediately after the organization of the Legislature and taking the oath of office by the state officers, the Legislature shall then and there proceed to the election of two Senators of the United States for the State of South Dakota, in the mode and manner provided by the Laws of Congress for the election of United States Senators. And the Governor and the Secretary of the State of South Dakota shall certify the election of the said Senators and two Representatives in Congress, in the manner required by law.

SEC. 15. Immediately after the election of the United States Senators as above provided for, said Legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock M.

Provided, however, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said Legislature shall convene within ten days after the date of the admission of the State into the Union.

SEC. 16. Nothing in this Constitution or Schedule contained shall be construed to authorize the Legislature to exercise any powers except such as are necessary to its first organization, and to elect United States Senators, and to adjourn as above provided.

Nor to authorize an officer of the Executive, Administrative or Judiciary departments, to exercise any duties of his office until the State of South Dakota shall have been regularly admitted into the Union, excepting such as may be authorized by the Congress of the United States.

Sec. 17. The Ordinances and Schedule enacted by this Convention shall be held to be valid for all the purposes thereof.

SEC. 18. That we, the people of the State of South Dakota, do ordain;

First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of this State shall ever be molested



in person or property on account of his or her mode of religious worship.

Second. That we, the people inhabiting the State of South Dakota, do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribe and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; That the lands belonging to the citizens of the United States residing without the said State, shall never be taxed at a higher rate than the lands belonging to residents of this State. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relations and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent, and as prescribed by such act of Congress.

Third. That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth. That provisions shall be made for the establishment and maintenance of systems of public Schools, which shall be opened to all the children of this State, and free from sectarian control.

Fifth. That Jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall, and Fort Sully, heretofore declared by the President of the United States; provided legal process, civil and criminal, of this State shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

These Ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota, expressed by their Legislative Assembly.

SEC. 19. The tenure of all officers, whose election is provided for in this schedule, on the first day of October, A. D. 1889, shall be as follows:

The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of School and Public Lands, Judges of County Courts, shall hold their respective offices until the first Tuesday after the first Monday, in January, A. D. 1891, at twelve o'clock M. and until their successors are elected and qualified.

The Judges of the Supreme Court and Circuit Courts, shall hold their offices, until the first Tuesday, after the first Monday, in January, A. D. 1894, at 12 o'clock M., and until their successors are elected and qualified; subject to the provisions of Section 26, of Article V, of the Constitution.

The terms of office of the members of the Legislature, elected at the first election held under the provisions of this Constitution shall expire on the first Tuesday, after the first Monday in January, one thousand and eight hundred, and ninety-one. (1891.)

SEC. 20. That the first general election under the provisions of this Constitution, shall be held on the first Tuesday, after the first Monday, in November, 1890, and every two years thereafter.

SEC. 21. The following form of ballot is adopted:

### CONSTITUTIONAL TICKET.

#### INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the Constitution, or for any of the articles submitted to a separate vote, may erase the word "No."

All persons who desire to vote against the Constitution, or any articles separately submitted, may erase the word "Yes."

For the Constitution. Yes. No.

For Prohibition. Yes. No.

For Minority Representation. Yes. No.

For ..... as the Temporary Seat of Government.

For Governor.

.....  
For Lieutenant Governor.

For Secretary of State.

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For Auditor.

---

For Treasurer.

---

For Attorney General.

---

For Superintendent of Public Instruction.

---

For Commissioner of School and Public Lands.

---

For Judges of the Supreme Court.

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First District.....

Second District.....

Third District.....

For Judge of the Circuit Court.....Circuit.

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For Representatives in Congress.

---

For State Senator.

---

For Representative in the Legislature.

---

For County Judge.

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SEC. 22. This Constitution shall be enrolled and after adoption and signing by the Convention shall be delivered to Hon. A. J. Edgerton, the President of the Constitutional Convention, for safe keeping, and by him to be delivered to the Secretary of State as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the State, and all future editions thereof.

The President of this Convention shall also supervise the making of the copy that must be sent to the President of the United States; said copy is to be certified by the President and Chief Clerk of this Convention.

SEC. 23. "The agreement made by the Joint Commission of the Constitutional Conventions of North and South Dakota concerning the records, books, and archives of the Territory of Dakota is hereby ratified and confirmed, which Agreement is in the words following: That is to say:"

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit:

All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic corporations, Returns of election of Delegates to the Constitutional Convention of 1889 for South Dakota, Returns of elections held under the so called Local Option Law in counties within the limits of South Dakota, Bonds of Notaries Public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are part of the records and archives of said Secretary's office; excepting also census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are part of the records and archives of said Governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or in the custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota; one Warrant Register in the office of the Treasurer of this Territory being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining



to counties within the limits of North Dakota; paid and cancelled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroad situated wholly or mainly within the limits of North Dakota; records and papers of the office of the Public Examiner of the Second District of the Territory; records and papers of the office of the Second District Board of Agriculture; records and papers in the office of the Board of Pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies, shall be borne equally by the said States of North Dakota and South Dakota, that is to say:

Appropriation Ledger for the years ending November, 1889 and 1890—one volume.

The Current Warrant Auditor's Register—one volume;

Insurance Record for 1889—one volume;

Treasurer's Cash Book "D;"

Assessment Ledger "B;"

Dakota Territory Bond Register—one volume;

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes, which are to be copied shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at the capital of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts or such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and

archives which it is herein agreed may be made, shall be borne equally by said two States.

ALONZO J. EDGERTON,  
President of the Constitutional Convention.

R. C. ANDERSON,  
IRENENS ATKINSON,  
LYMAN T. BOUCHER,  
ANDREW J. BERDAHL,  
S. F. BROTT,  
C. BEUCHLER,  
E. W. CALDWELL,  
EDGAR E. CLOUGH,  
C. G. COATS,  
WM. COOK,  
GEORGE C. COOPER,  
DIGHTON CORSON,  
PETER COUCHMAN,  
HARRY TRUMBULL CRAIG  
GEORGE H. CULVER,  
J. G. DAVIES,  
W. G. DICKINSON,  
T. F. DIEFENDORF,  
J. DOWNING,  
H. W. EDDY,  
EDWARD G. EDGERTON,  
W. ELLIOTT,  
H. F. FELLOWS,  
J. A. FOWLES  
C. S. GIFFORD,  
W. H. GODDARD,  
DAVID HALL,  
C. J. B. HARRIS,  
CORBLEY G. HARTLEY,  
M. R. HENNIGER,  
L. H. HOLE,  
C. A. HOULTON,  
S. F. HUNTLEY,  
H. A. HUMPHREY,  
S. D. JEFFRIES,  
JOHN L. JOLLEY,

A. G. KELLAM,  
JOHNATHAN KIMBALL,  
TIMOTHY W. P. LEE,  
R. F. LYONS,  
W. H. MATSON,  
A. B. MCFARLAND,  
V. T. MCGILLYCUDDY,  
W. H. MURPHY,  
HENRY NEILL,  
WM. S. O'BRIEN,  
SANFORD PARKER,  
S. S. PECK,  
CHARLES H. PRICE,  
SAMUEL A. RAMSEY,  
A. O. RINGSRUD,  
JOHN SCOLLARD,  
C. G. SHERWOOD,  
R. A. SMITH,  
I. R. SPOONER,  
WM. STOTTARD,  
THOMAS STERLING,  
M. P. STROUPE,  
F. W. THOMPSON,  
STEPHEN B. VANBUSKIRK  
WILLIAM VANEPS,  
CLARENCE H. VANTASSEL  
CHESTER R. WESTCOTT,  
S. A. WHEELER,  
J. F. WHITLOCK,  
J. V. WILLIS,  
W. T. WILLIAMS,  
H. M. WILLIAMSON,  
CHAUNCEY L. WOOD,  
JOSHUA F. WOOD,  
F. G. YOUNG,  
JOSEPH ZITKA.

Attest: F. A. BURDICK,  
Chief Clerk.

Mr. Jolley in behalf of the Convention presented the President with a picture of the members of the Convention.

Mr. Caldwell presented the Convention with the Records of the proceedings of the Joint Commission.

On motion they were placed in the custody of the President to be by him placed in the archives of the new State.

Mr. Clough made statement regarding excursion to Watertown and the following resolution was adopted:

*Resolved*, That we extend and do hereby extend to the City officers and the citizens of Watertown our sincere thanks for their kind and generous invitation to visit their famous city as the guests thereof. And we hereby express our deep regret, that by reason of lack of time and the approaching final adjournment of the Convention it is not possible for us to accept the invitation.

On motion of Mr. Hole,

It was agreed that when this Convention adjourn it adjourn sine die.

Mr. Caldwell offered

The following resolution:

*Resolved*, That the president of this Convention, as custodian of the enrolled copy of the Constitution, is hereby requested to have four copies of said Constitution and accompanying documents prepared, and compared and certified to by him, said copies to be used in printing the newspaper supplements provided for by this Convention—the expense of which copies shall be vouched by him to the first session of the State Legislature, not to exceed fifty dollars.

Carried.

Mr. Kellam moved that the four stars on Convention Hall be left with Mr. Caldwell to be placed in Hall of the State House.

Carried.

On motion the Convention took recess till 4:00 P. M.

4 o'clock P. M.

Convention called to order.

Mr. VanBuskirk was called to the chair.

Mr. Edgerton of Davison moved

That a committee of three be appointed to draft resolutions protesting against the action of the Clerk sent by the Secretary of the Territory to settle expenses of Convention.

Explanations were made and the motion withdrawn.

On motion of Mr. VanTassel the following resolution was adopted:

*Resolved*, That the thanks of this Convention be tendered

to Mr. Hubbard for his kind attention to the members of this Convention.

Moved,

That a committee of three (3) be appointed by the Convention to interview the Clerk of the Secretary of the Territory in regard to mileage.

Motion carried.

The president appointed Messrs. Caldwell, VanBuskirk and Price.

Mr. Anderson was called to the chair,

And the following resolution was offered by Mr. Edgerton of Davison:

*Resolved*, That the committee authorized by the Convention to publish the debates secure the publication of the same at the earliest possible time when the funds can be secured, either from the United States or the State, and that the published debates be distributed the same as Journals.

Resolution adopted.

Mr. VanTassel moved,

A reconsideration of the motion that "when the Convention adjourn it adjourn sine die."

Motion to reconsider carried.

Further consideration of the motion was postponed till 7 o'clock this evening.

Mr. VanEps moved

That a recess be taken till 4:30 o'clock P. M., and the Convention assemble in the room below.

Carried.

4:30 P. M.

# REPORT OF THE COMMITTEE ON EXPENSES OF THE CONVENTION.

AUGUST 5, 1889.

MR. PRESIDENT:

Your Committee on Expenses of the Convention beg leave to report the following bills and recommend that the same be allowed:

Bill of J. L. Hannett, Clerk of Judiciary Committee . . . .	\$140 00
C. J. Deitz, Clerk of Schedule and Ordinance Committee	140 00
John H. Drake, Secretary and Disbursing agent of South Dakota Commission . . . . .	279 89
S. P. McClaren, Clerk of Commission . . . . .	194 00
I. W. Goodner, Stenographer, for expenses Commission to Bismarck . . . . .	84 00



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T. G. Brown, enrolling Constitution.....	70 00
T. G. Brown, per diem Stenographer.....	330 00
I. W. Goodner, per diem Stenographer.....	330 00
E. C. Warner, postage and forwarding mail to Bismarck Commission .....	2 25
C. A. Anderson, Clerk of Apportionment Committee..	110 00
Albert Keith, Page to Convention .....	66 00
Frank Clough, Page to Convention .....	66 00
Charles Walts, Page to Convention .....	66 00
E. W. Caldwell, telegrams.....	2 79
F. A. Burdick, two days, indexing Journal.....	12 00
A. W. Hyde, two days, completing enrolled Journal....	10 00

Your Committee report to the Convention that the Stenographers are entitled to 25 cents per folio for one transcript of the proceedings of the convention, and recommend that the President and Chief Clerk of this Convention be authorized to approve the bill for the same and to issue vouchers therefor as provided in rule 45 of this Convention upon the production and deposit with the President of the Convention of a full and complete transcript of the proceedings of the Convention taken by the stenographer furnishing the transcript.

A separate voucher to be issued to each stenographer for the amount due him for his share of the transcript.

Respectfully submitted

S. F. HUNTLEY.  
H. F. FELLOWS.  
S. D. JEFFRIES.  
C. G. SHERWOOD.  
SANFORD PARKER.  
A. McFARLAND.  
H. M. WILLIAMSON.

Report adopted.

Recess taken to 7 o'clock P. M.

7 o'clock P. M.

Convention called to order and recess taken till 9 o'clock.

9 o'clock P. M.

Convention called to order by the President.

On motion of Mr. Jolley,

The Convention adjourned "sine die."

A. J. EDGERTON,  
President.

[Attest]: F. A. BURDICK, Chief Clerk.

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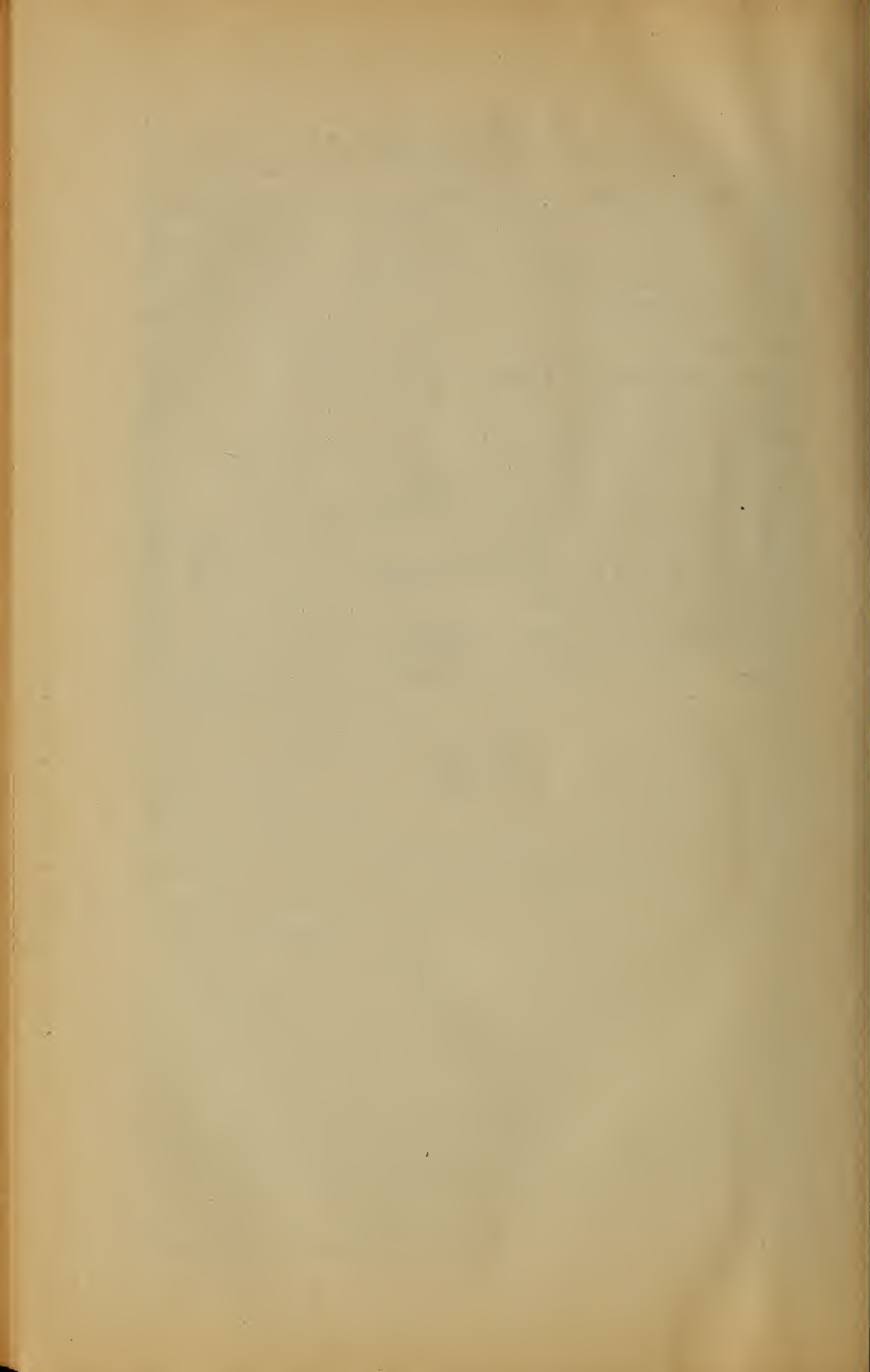
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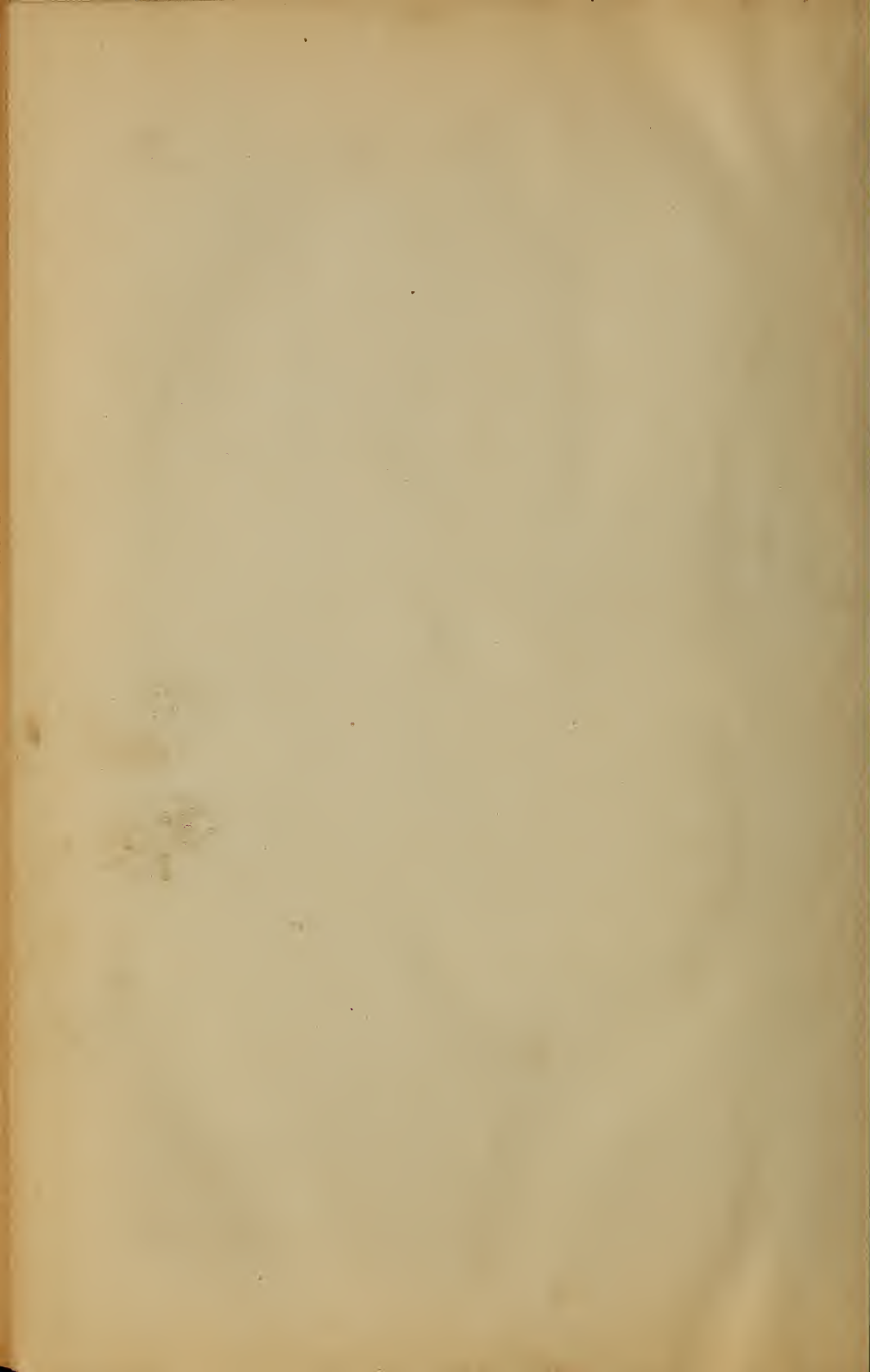
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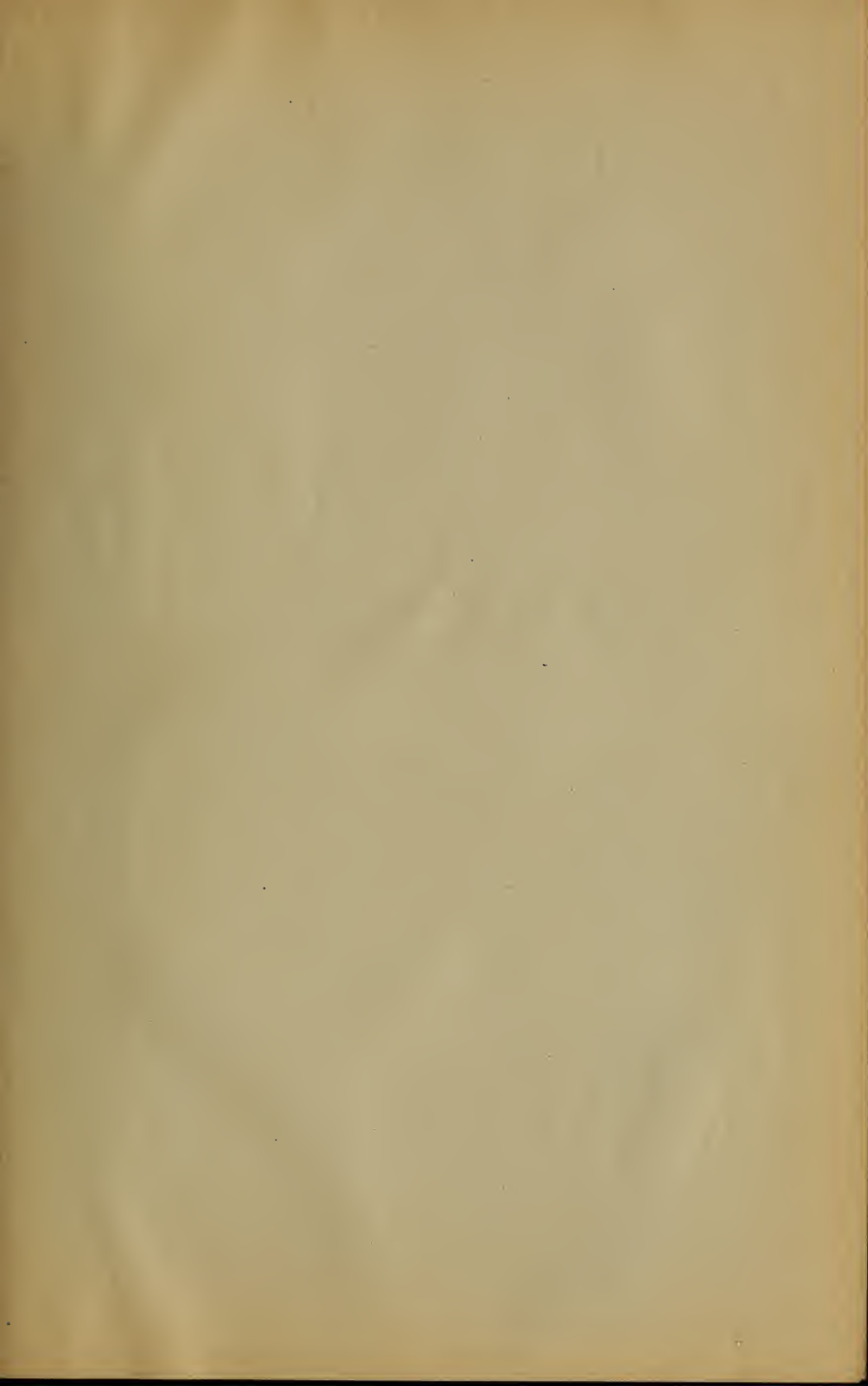
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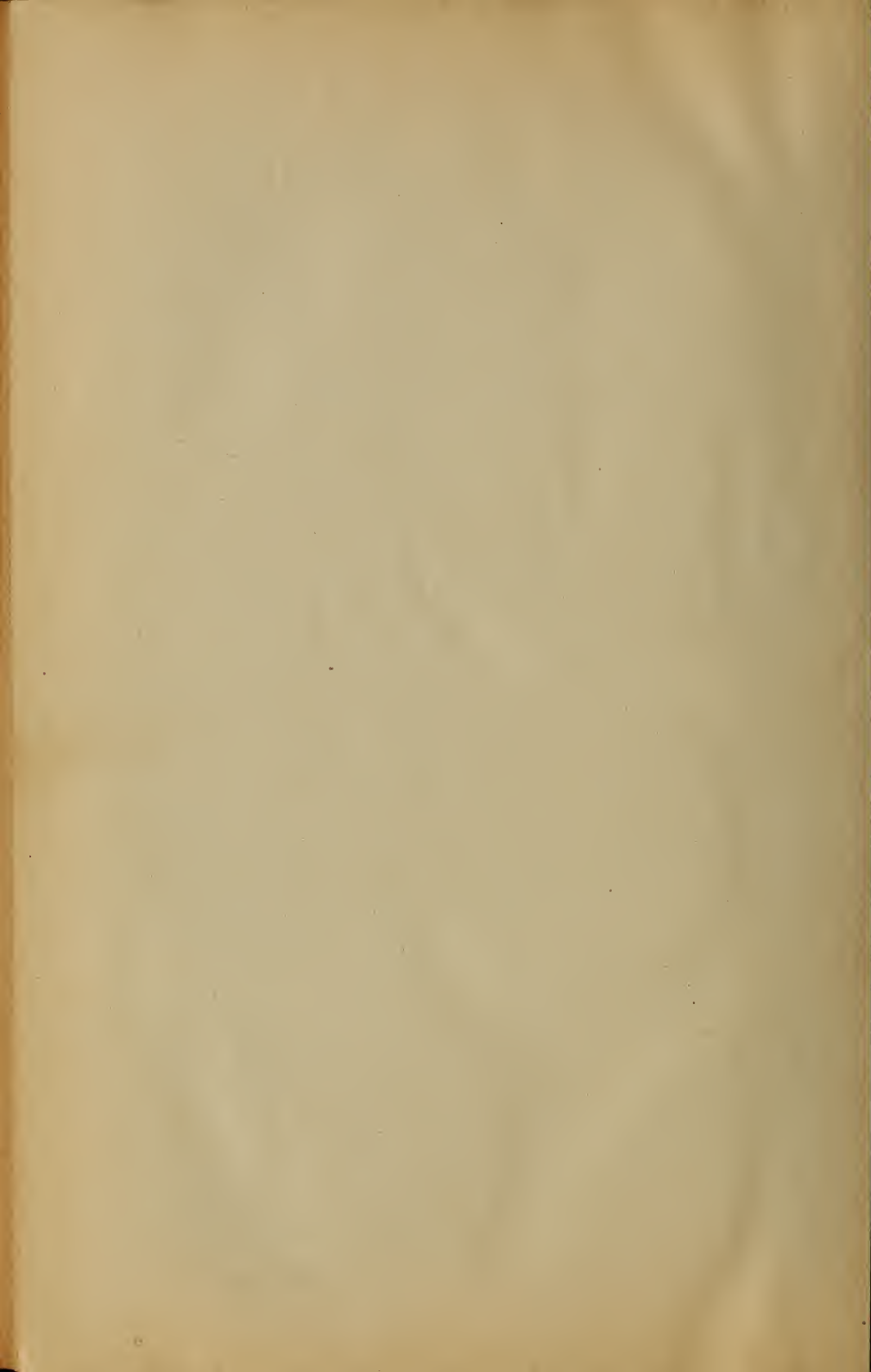


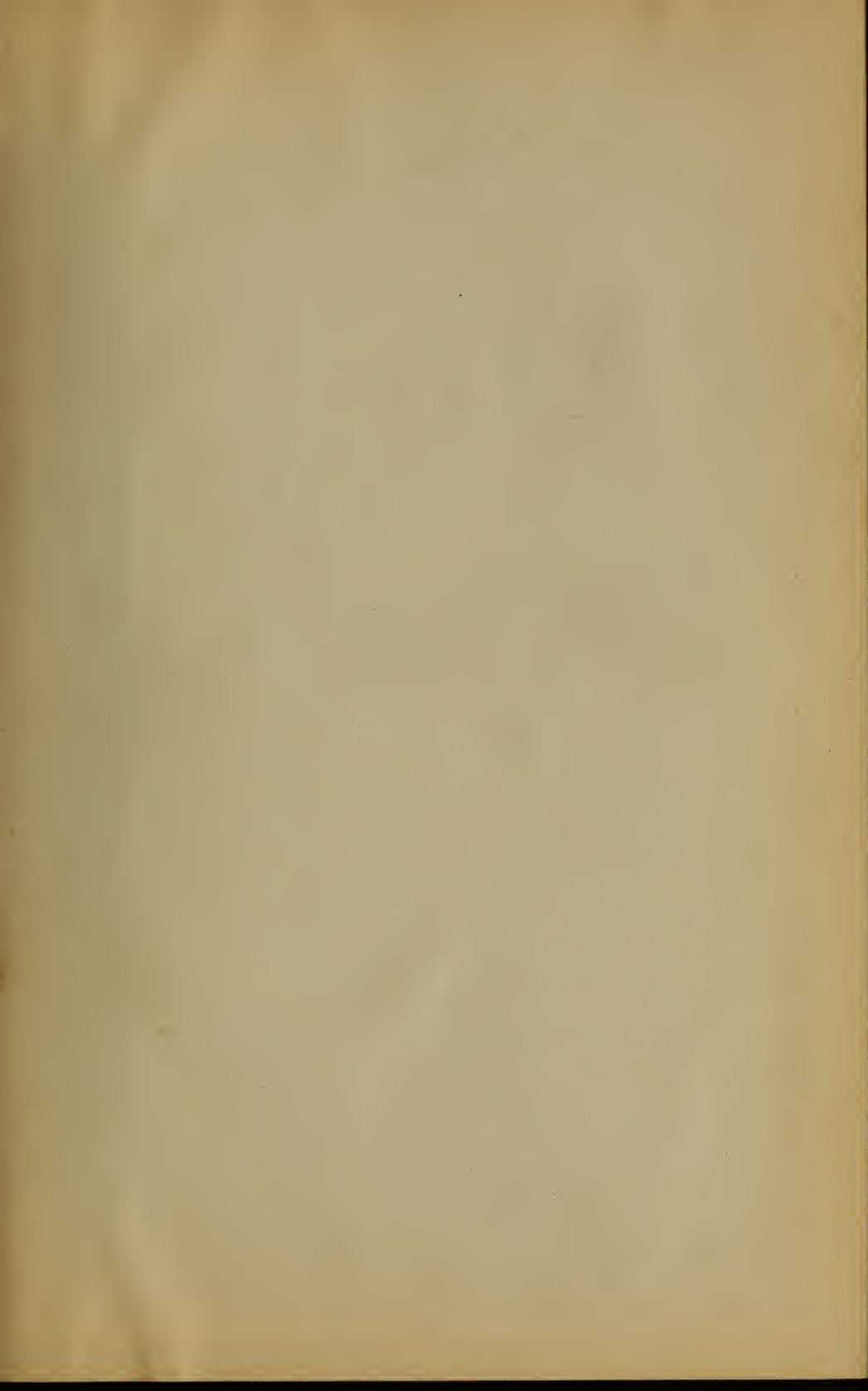


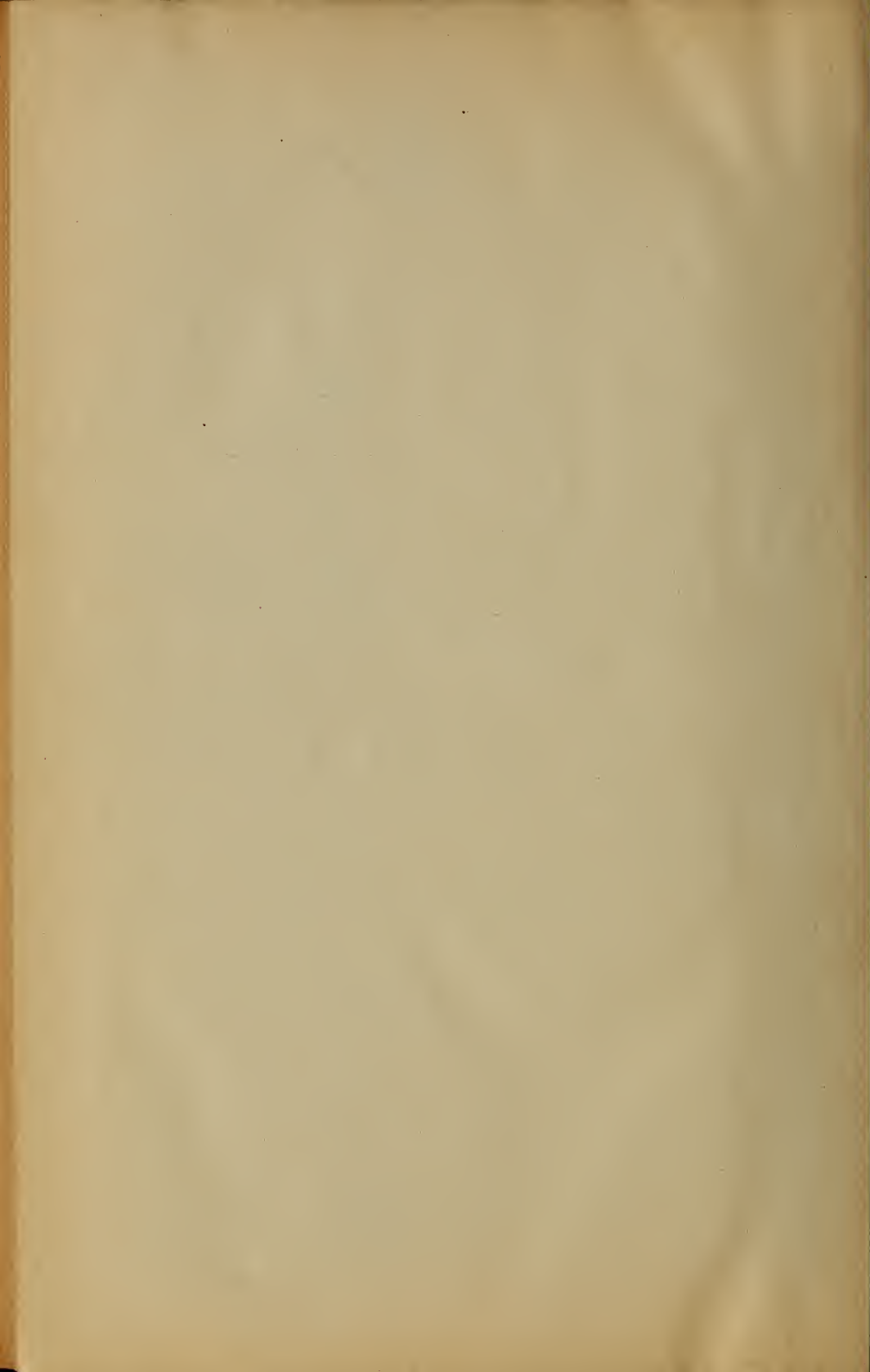


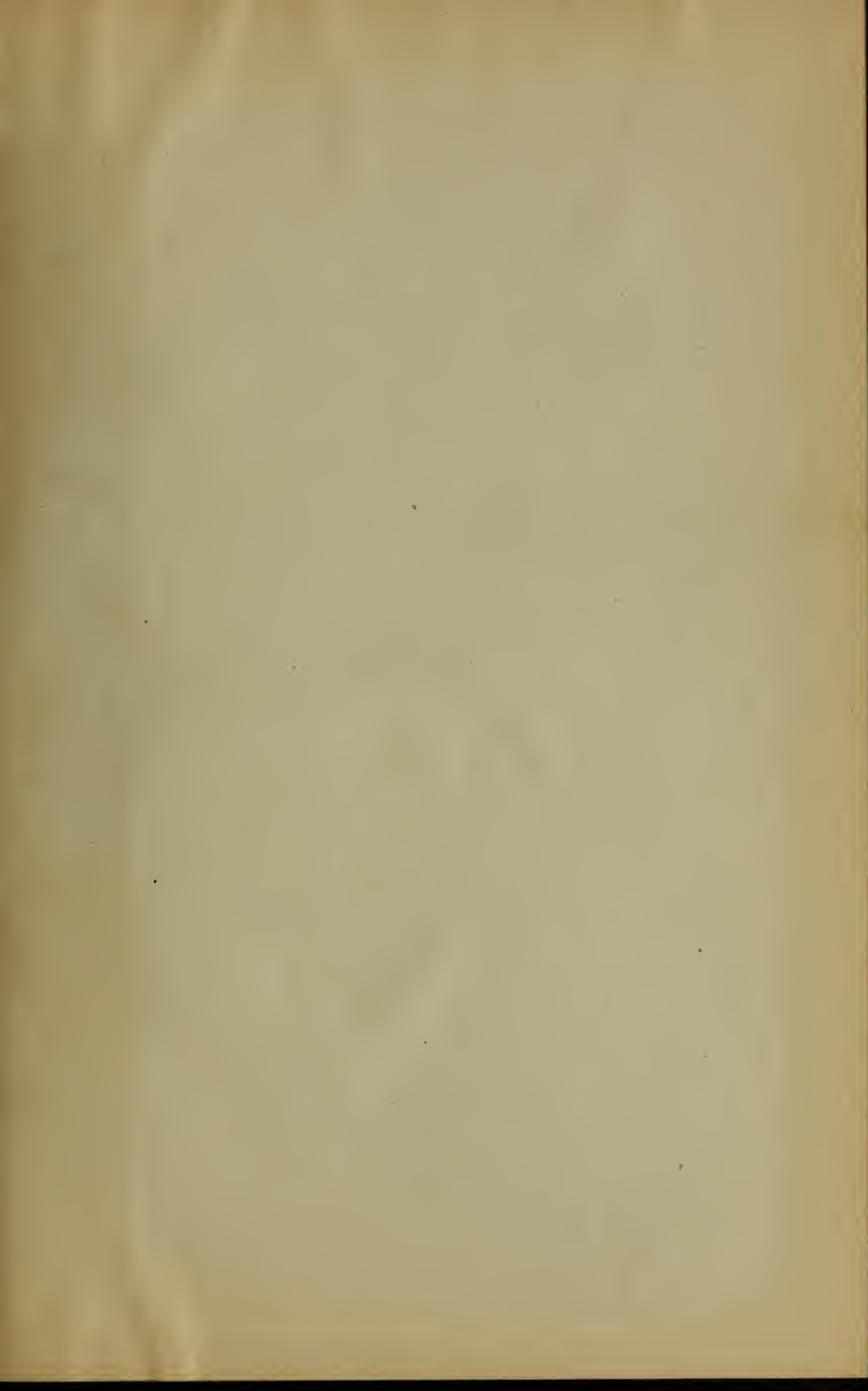
















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